*HV
8949
A5
1856
V.1

D
0
0
0
9
7
5
7
4
2
8

UC SOUTHERN REGIONAL LIBRARY FACILITY

THE LIBRARY
OF
THE UNIVERSITY
OF CALIFORNIA
LOS ANGELES

FIRST

REPORT.

TRANSPORTATION.

Ordered, by The House of Commons, *to be Printed,*
27 *May* 1856.

[*Price* 2*s.*]

Under 1 *lb.* 12 *oz.*

FIRST

REPORT

FROM THE

SELECT COMMITTEE

ON

TRANSPORTATION;

TOGETHER WITH THE

MINUTES OF EVIDENCE,

AND APPENDIX.

Ordered, by The House of Commons, *to be Printed,*
27 *May* 1856.

244.

Jovis.

Ordered, That a Select Committee be appointed to inquire into the Provisions and Operation of the Act 16 & 17 Vict. c. 99, intituled "An Act to substitute in certain Cases other Punishment in lieu of Transportation."

Martis, 8° *die Aprilis,* 1856.

Committee nominated of,—

Mr. Baines.
Sir John Pakington.
Mr. Scott.
Mr. Wortley.
Sir William Heathcote.
Mr. Adderley.
The Lord Advocate.
Mr. Serjeant O'Brien.
Mr. Henley.
Mr. Wickham.
Mr. John Wynne.
Mr. Massey.
Mr. Becket Denison.
Mr. Deedes.
Mr. Seymour Fitzgerald.

Ordered, That the Committee have power to send for Persons, Papers, and Records.

Ordered, That Five be the Quorum of the Committee.

Jovis, 10° *die Aprilis,* 1856.

Ordered, That Mr. Scott be discharged from further attendance on the Committee, and that Lord Naas be added to thereto.

Martis, 15° *die Aprilis,* 1856.

Ordered, That the Committee do consist of sixteen Members, and that Mr. Monckton Milnes be added thereto.

Ordered, That Sir William Heathcote be discharged from further attendance on the Committee, and that Mr. Ker Seymer be added thereto.

Jovis, 22° *die Maii,* 1856.

Ordered, That the Committee have power to Report the Minutes of Evidence taken before them, from time to time to The House.

REPORT - - - - - - - - - - - - - p. iii
MINUTES OF EVIDENCE - - - - - - - - - p. 1
APPENDIX - - - - - - - - - - - - p. 179

FIRST REPORT.

THE SELECT COMMITTEE appointed "to inquire into the Provisions and Operation of the Act 16 & 17 Vict. c. 99, intituled 'An Act to substitute in certain Cases other Punishment in lieu of Transportation,'" and who were empowered to report the MINUTES OF EVIDENCE taken before them, from time to time to The House :——

HAVE taken Evidence on the Matters to them referred, which they have agreed to report to The House.

27 *May* 1856.

836139

LIST OF WITNESSES.

Jovis, 17° *die Aprilis*, 1856.

Horatio Waddington, Esq. - - - - - - - - - p. 1

Lunæ, 21° *die Aprilis*, 1856.

Horatio Waddington, Esq. - - - - - - - - - p. 25
Thomas Frederick Elliot, Esq. - - - - - - - - - p. 26

Lunæ, 28° *die Aprilis*, 1856.

Captain Donatus O'Brien - - - - - - - - - p. 47

Jovis, 1° *die Maii*, 1856.

Captain Donatus O'Brien - - - - - - - - - p. 73
Captain Irwine S. Whitty - - - - - - - - - p. 78

Lunæ, 5° *die Maii*, 1856.

Captain Irwine S. Whitty - - - - - - - - - p. 87
Colonel Joshua Jebb, R.E., C.B. - - - - - - - - p. 92

Jovis, 22° *die Maii*, 1856.

Colonel Joshua Jebb, R.E., C.B. - - - - - - - - p. 114
Captain Walter Crofton - - - - - - - - - p. 138

Lunæ, 26° *die Maii*, 1856.

Captain Walter Crofton - - - - - - - - - p. 144
Right Honourable Earl Grey - - - - - - - - - p. 160

MINUTES OF EVIDENCE.

Jovis, 17° *die Aprilis*, 1856.

MEMBERS PRESENT.

Mr. Baines.	Mr. Henley.
Sir John Pakington.	Mr. John Wynne.
Lord Naas.	Mr. Massey.
Mr. Wortley.	Mr. Beckett Denison.
Mr. Adderley.	Mr. Deedes.
The Lord Advocate.	Mr. Seymour Fitzgerald.
Mr. Serjeant O'Brien.	Mr. Monckton Milnes.

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Horatio Waddington, Esq., called in; and Examined.

H. Waddington, Esq.

17 April 1856.

1. *Chairman.*] I BELIEVE you fill the office of permanent Under Secretary of State for the Home Department?—I do.

2. How long have you occupied that office?—Since the year 1848.

3. Do you remember the passing of the Act 16 & 17 Vict., c. 99, in the year 1853?—I do, perfectly well.

4. I believe the preparation of that Act was a good deal under your own superintendence?—It was; in conjunction, of course, with the Lord Chancellor, and Lord Palmerston, who was then Principal Secretary of State.

5. I observe that in the Preamble of that Act, it is stated that "by reason of the difficulty of transporting offenders beyond the seas, it has become expedient to substitute, in certain cases, other punishment in lieu of transportation." Will you give the Committee some information as to the nature and extent of the difficulties of transporting offenders which had by that time come under your observation?—It is rather difficult to decide exactly at what point to begin upon such a question; but perhaps I may mention to the Committee that the first deadly blow which was struck at the system of transportation to the Australian colonies was given by a Committee of the House of Commons in 1838, generally known, I believe, as Sir William Molesworth's Committee. You are aware, I dare say, that the Report of that Committee of 1838 was extremely adverse to transportation, and recommended its discontinuance, both as a great injustice to, and a serious infliction upon the colonies, and also as a bad punishment in itself, failing to deter criminals at home, or reform them abroad; in fact, it is impossible to have a Report more decidedly adverse to it. There was at that time a very strong party in the colony opposed to transportation; not, however, at that time so strong I believe as those who were in favour of it. That Report of course gave great strength to the opponents of transportation; and though the system continued, yet the opposition increased in strength, I believe, every year. Unfortunately, in a few years preceding the year 1845, from 1840 to 1845 inclusive, the Government thought it right to send out an enormous quantity of convicts to the colony of Van Diemen's Land; there were no less than the enormous number of 17,000 convicts sent out in those six years. The consequences of that were most disastrous; the supply was infinitely greater than the demand; they could not be employed by the settlers; they were congregated in immense numbers on

H. Waddington, Esq.

17 April 1856.

public works. A frightful degree of crime was produced, and a proportionate degree of alarm; and the result was, that though transportation to Van Diemen's Land was suspended for two or three years, still the feeling against it gaining additional strength, leagues were formed; the local Legislatures passed resolutions against it; an Australian league was formed two or three years afterwards to put an end to it, and the consequence was, that at the end of the year 1850 transportation to New South Wales and South Australia was discontinued; the great glut had been in the year preceding 1845: the suspension was in 1846 and 1847. Transportation was again resumed to Van Diemen's Land in 1848, and continued until its entire abolition at the end of the year 1852.

6. Mr. *Adderley.*] What was the date of the league?—I think it was 1850 or 1851, I cannot exactly state. I need scarcely mention that the discovery of the gold fields of course gave additional strength to the colonists; it gave them more confidence in themselves, and increased their prosperity, and made them feel more strongly the extreme degradation and positive injustice of having the dregs of the English population regularly imposed upon them.

7. Sir *J. Pakington.*] The league did not originate in Van Diemen's Land?—I think it originated in South Australia.

8. Mr. *Henley.*] And of course the discovery of the gold fields made the great stream of free labour set there?—An immense deal of free labour set there; it gave such a sudden spring to the prosperity of the Australian Colonies generally, that it was pretty clear that from that time transportation was at an end. I may observe also that it produced an idea in this country that transportation, instead of deterring offenders, was rather an inducement to them to commit crime; that idea was, I think, rather extensively entertained in this country at one time; it was not, I believe, well founded, as the Criminal Returns show; however, it produced its effect. Then, as I said before, transportation to South Australia was discontinued at the end of 1850; the last convicts were sent there in 1850; I think 297 only were sent in that year. It continued for two years longer to Van Diemen's Land with a still increasing opposition, and at the end of 1852 it was abandoned to Van Diemen's Land also, leaving as our only outlet the little colony of Western Australia.

9. Sir *J. Pakington.*] In one or two of your recent answers you have alluded to convicts being sent to South Australia; I apprehend that you refer either to New South Wales or to Victoria?—Yes; I perceive that is the case.

10. I believe that convicts were never at any time sent to South Australia?—Upon looking at this memorandum of Mr. Elliot's, from which I principally derive my information upon this subject, with which we at the Home Office have nothing to do practically, I see that, in stating South Australia from recollection, I should have stated that the convicts were in reality sent to New South Wales; South Australia joined in the protest against the continuation of transportation, most undoubtedly.

11. *Chairman.*] I think you have arrived at the point where you have stated that in 1852 transportation ceased to Van Diemen's Land?—Yes; and I shall ask permission to correct my evidence by stating that at the end of 1850 transportation ceased to New South Wales, and at the end of 1852 it ceased to Van Diemen's Land.

12. Did that state of things create the difficulty of transporting offenders beyond the seas mentioned in the Preamble of the Act of Parliament which we are met to consider?—It did; the number which the colony of Western Australia could receive was comparatively very small.

13. Can you give the Committee information upon that point?—It is somewhat uncertain; but the notion, I believe, was, that it might be from 500 to 600 a year, or something of that sort; and that we could not in future count upon being able to transport more than 500 or 600; there might be more or less.

14. Can you inform the Committee as to the number of persons sentenced to transportation during the last few years before 1853?—Yes; I can give the Committee the number during the last five years, or during the last ten, whichever they think best, ending with the year 1852. The number of convicts sentenced to transportation in 1848 were 3,601.

15. Is this for England, Scotland, and Ireland?—This is for Great Britain only. I have purposely kept Great Britain separate from Ireland, because Irish criminal statistics are so perfectly different from those of England and Scotland, that if they were introduced into any average, they would throw it into complete confusion.

H. Waddington, Esq.

17 April 1856.

sion. Of course the Committee can have the Irish returns separately if they wish it.

16. Mr. Serjeant *O'Brien.*] I suppose the 17,000 sent to Van Diemen's Land in the five years were from Great Britain only?—The 17,000 were from Great Britain and Ireland both; those were before 1845. I am now taking Great Britain, because the description of Irish convicts is so entirely different from those of Great Britain, that the transportation has been very much more irregular from Ireland, and also the fluctuation of crime in Ireland has been so extremely great, as compared with that in England and Scotland, that if you attempted to make an average of it, you would not get a correct notion of the state of things, either in Great Britain or in Ireland; therefore I am now taking Great Britain. The number of persons sentenced to transportation in 1848 were 3,601; the number transported in the same year were 1,407 males and 490 females, making together 1,897. In 1849, the number sentenced to transportation were 3,218, and the number transported 1,620, of whom 1,243 were males, and 377 females. Then, in 1850, there were 3,176 sentenced to transportation; 2,105 males were transported, and 360 females, making altogether 2,465. In 1851, there were 3,338 sentenced to transportation, and there were transported 2,008 males and 432 females, making a total of 2,440. In 1852, which may be called the last year of the transportation system, there were 2,896 sentenced, and there were transported 2,102 males and 439 females, making together 2,541. I have had those numbers added up, and the totals make, for the five years, the number sentenced to transportation, 16,229, and the number actually transported 10,963, making a little more than two-thirds.

17. *Chairman.*] Looking to the number of persons sentenced to be transported annually, in that state of the law, and to the capacity of the only place left, namely, Western Australia, for the purpose of receiving transports, in your judgment did an absolute necessity arise for an alteration in the law?—Yes, I think so. It was considered, that when the number who could be transported bore so small a proportion to the number who would probably be sentenced to transportation if the law were not altered, it would be improper to continue passing a sentence which could be carried out in so few instances; therefore it was thought that an alteration should be made, that the number of persons sentenced to transportation should be reduced, and some other punishment substituted for it.

18. What were the principal objects of the Act of 1853; the Bill was proposed by the Home Office, was it not?—Yes. The Lord Chancellor undertook to bring it in; it was brought into the House of Lords by the Lord Chancellor, but it was in entire concert with the Home Office; the principal object was that which I have mentioned, and the mode in which it was carried out was this: the first matter, of course, was to determine upon the amount of punishment which should be substituted for the different periods of transportation. The practice had been of late years this: there had been always a certain class of convicts who could not, owing to their health, be transported; they were not fit for transportation, and their sentences were commuted by pardon after a certain period. In former times, when transportation was partially discontinued, as I have before mentioned, to Van Diemen's Land, the convicts who were kept at home might be recommended for pardons at the end of half their sentences; a seven years' convict, who had conducted himself well, would probably receive a pardon at the end of three years and a half. That had been rather varied in the beginning of 1853, and the general rule was, that a seven years' convict received a free pardon in this country, supposing that he was not in a condition to be transported, at the end of four years; therefore it was determined to substitute for seven years' transportation, a term of four years' penal servitude. Then the next substituted punishment was for sentences not exceeding 10 years; that was placed at six years as the substituted punishment; and that was founded upon the same ground of analogy to the then existing practice as to giving pardons to convicts who could not be transported. The next substituted punishment was for sentences of transportation of between 10 years and 15; that was penal servitude for not less than six, and not exceeding eight years; that was substituted upon the same analogy, and also upon the notion that that would be about a fair commutation. Of course the commuted sentences previously, in cases of long terms of transportation, were not nearly so frequent as those in the case of seven years; still there were some instances of those. The next class, I think, were terms of transportation between

H. Waddington, Esq.

17 April 1856.

15 years and transportation for life. In the long terms of transportation, exceeding 15 years, and short of transportation for life, the substituted punishment was penal servitude for not less than six years, and not exceeding ten. It is all set out in the Act: for transportation for life, penal servitude for life was substituted. There would be some persons whom the public safety would not allow you to turn loose upon the public at all; it would be necessary, therefore, to keep some persons in penal servitude for the whole of their lives; but it was supposed that if a person could with safety to the public be released, he might be released after 10 years' penal servitude; therefore there was no intermediate term of penal servitude between 10 years and life.

19. Can you inform the Committee of the number of convicts actually under sentence of transportation at the time when this Act was passed?—Yes; I have a return of those; this gives the number of convicts under sentence of transportation in confinement on the 30th September 1853, the Act having received the Royal Assent on the 20th August 1853. This is confined to Great Britain again, and includes those English and Scotch convicts who were at Bermuda and Gibraltar. I may mention to the Committee that Bermuda and Gibraltar are places appointed by Her Majesty for the confinement of convicts under sentence of transportation out of Great Britain; the power is given by the Transportation Act. Whether this is by a mistake of the clerk who made it out, I do not know; but this Return is headed, Number of Convicts under sentence of Transportation in Confinement on the 30th of September 1853: there may be some reason for his making it up to that day; probably it is owing to the returns being quarterly; it will not be material as to the state of things at all; the number is 9,370 males and 480 females, making a total of 9,850; that was the number which we had then to dispose of, remaining upon our hands under sentences passed in former years.

20. What proportion of those have been already disposed of?—This leads me to what the Committee will, perhaps, allow me to state, namely, the origin of what is called the ticket-of-leave system, because it was with reference to this accumulation of convicts that the system was introduced. It was supposed that it would be a very serious evil indeed to set at liberty in England this large number of convicts with free pardons, and it was thought, upon great consideration, desirable at any rate that the experiment should be tried of retaining some control over them, after they were set at liberty, and it was conceived that the best mode of doing that would be by taking a power in the Bill to give them a license to be at large in the United Kingdom, revocable at the pleasure of the Crown. It was thought that the power of revoking that license, without assigning any cause whatever, at the pure pleasure of the Crown, would hang *in terrorem* over these unfortunate persons, and would hold out the very strongest possible inducement to them to conduct themselves properly, and to abstain from any violation of the law. That power, therefore, was taken in the Act, and it was taken also for convicts under sentence of penal servitude, upon whom sentence might afterwards be passed, as it might happen that there might be cases in which it would be desirable also to let them out before the expiration of their sentence; some upon medical grounds; others for remarkably good conduct; assisting in preserving order, and other matters of that sort; grounds upon which the Crown frequently extends some mitigation of punishment to prisoners. It was thought that it might be better in sentences of penal servitude to give that mitigation in the shape of a license to be at large than in the shape of a free pardon. For that reason the power was taken in cases of penal servitude also, but not with any intention of exercising it generally in cases of penal servitude. The intention was to carry it out generally in cases of transportation, and that has been done to a very great extent. That will now lead me to the answer to the Chairman's last question, as to how many of these persons have been disposed of, and how many remain.

21. That is, of the number who were under sentence of transportation at the time when the Act passed?—Yes; of these there have been transported 1,320 males up to the present time, and no females.

22. You are speaking now of the number which you said you had upon your hands, as it were, under sentence of transportation at the time when this Act passed?—Yes.

23. Of that number 1,320 males have been since transported, and no females?—Yes.

24. Sir

24. Sir *J. Pakington.*] Were all those 1,320 men under sentence of transportation when the Act passed?—Yes, they were those whom we had upon our hands at the time when the Act passed.

25. Mr. *Henley.*] Do you mean in this country?—In this country, and at Bermuda and Gibraltar.

26. Those at Bermuda and Gibraltar you considered on your hands?—Yes; Bermuda and Gibraltar may be considered as in this country for the purposes of this investigation. I mentioned that they were appointed under the Transportation Act as places for the confinement of offenders under transportation. They were under exactly the same conditions as Portland and Dartmoor, and places in this country.

27. Mr. *B. Denison.*] Then some of those 1,320 had been sent either to Bermuda or to Gibraltar?—Yes; I do not count that as disposing of them, because they remained just as much upon our hands as those who were kept in this country, unless they were transported.

28. Mr. *J. Wynne.*] Are they ever kept for life at Bermuda or Gibraltar?—A good many die there.

29. Do they ever retain them?—No, certainly not; the rule would be that a convict under sentence of transportation for life sent to Bermuda, who could not be transported, would be sent back to England, probably after eight or ten years, or some such period. The number discharged under licenses, or tickets-of-leave, has been 4,873 males, and 279 females, making together 5,152.

30. Mr. *B. Denison.*] You mean out of that number which was on hand at the time the Act passed?—Yes; this is up to March last, when a return was made to the House of Lords upon that subject; there have been some few discharged since, I believe. We cannot exactly give the Committee the number of deaths, because we do not know the number that have taken place at Gibraltar and Bermuda; but Mr. Everest, of the Home Office, who is at the head of our Criminal Department, and who is a gentleman of great intelligence, has made an approximation to it, and he estimates the deaths at 250 males and 20 females, making 270. I am now endeavouring to give the Committee the number that have been disposed of in one way or another, in order that they may see the number remaining on our hands. I am accounting now for the 9,850 that we had upon our hands at the passing of the Act. This gives me 6,443 males, and 299 females, making a total of 6,742 disposed of. Then deducting 6,742 from 9,850, it gives 3,108. To those I must add 179, whose licenses have been revoked, and therefore who return into the body again.

31. Sir *J. Pakington.*] How many females are there amongst those?—Six; and 173 males. That gives us therefore remaining upon our hands of the old offenders 3,287 I am not, of course, saying anything of those who have been sentenced since; those 3,287 are yet to be disposed of.

32. *Chairman.*] In the numbers which you have just given us as transported, you mean, I presume, transported to Western Australia, to the only colony open to you?—Yes.

33. Can you give the Committee any information with regard to the effects of the ticket-of-leave system, so far as it has come under your observation?—I will give the Committee all the information that is in our possession; I am afraid it will not enable them to come to a very decided conclusion upon the subject; but I think they will find from these returns that the effect has been at least as good as any reasonable person could have anticipated, considering the nature of the offenders who have been discharged. The Committee are aware, no doubt, that these persons under sentence of transportation are persons who had been, most of them, two or three times previously convicted, that we knew of: they may have been convicted oftener than that, but they are almost all of them old offenders, and therefore it was highly probable, that upon being thrown back into society, a great portion of them would misconduct themselves in a very serious manner. However, I am very much inclined to hope that such has not been the case. We did not at the Home Office, for the first year, send any circular to the different prisons requiring reports to be made of every person under a license who had found his way back to prison. It was thought at first that probably it would be better to leave them to themselves; not to point them out as a distinct class, but to see how they got on; and therefore it was not until the month of February 1855 that we sent a circular calling for reports upon that subject. Therefore I have divided my returns of the ticket-of-leave men and their offences into two parts;

H. Waddington, Esq.

17 April 1856.

parts; the one before we sent out this circular calling for reports, and the other after the circular was sent out. The first portion therefore will embrace the time from the passing of the Act in 1853 to the 20th of February 1855, which was the date of the circular. Up to that time we only got such information as was volunteered to us, and therefore I dare say it was not so full as we should have got if we had sent out our circular before.

34. Mr. *Adderley.*] That comprises about a year and a half?—Yes: up to the 20th of February 1855, the number of convicts discharged upon license was 2,647; they were discharged gradually of course; those were all with tickets-of-leave.

35. *Chairman.*] You speak here of Great Britain?—I am speaking entirely of Great Britain; I believe there have been very few discharges by tickets-of-leave in Ireland, and that is another reason why Ireland is not included; I was informed the other day that it was only just commencing; however that may be, there is nothing like the number in Ireland that we have here. Up to the 20th of February 1855, the number of licenses revoked were only 31, of those 22 were English males, and 8 Scotch, making 30; and one female, English. The total number reported for misconduct up to that time were 56.

36. Mr. *Deedes.*] Irrespective of the 31?—No, that includes the 31; of these 56, 39 were English males, and 16 Scotch, and one English female. Therefore, of the 56 reported, the licenses of 31 were revoked, and the others were convicted and sentenced to terms which over-rode the original sentence: they were longer than the original sentence; therefore, in those cases, it was unnecessary to revoke the license of course, because the new sentence would keep them in prison longer than the revocation of the license.

37. Sir *J. Pakington.*] In those cases, is not the license still revoked?—No; we never revoke a license when the new term of imprisonment extends over the original term.

38. You would not call those cases successful instances of tickets-of-leave?—No; on the contrary, I mean to include them in the cases which have fallen back.

39. Have not the public been rather led to believe that all those cases in which the license was not revoked were successful cases?—If they have, undoubtedly it has been a mistake, because there is a very large addition to be made to the revocations for the convictions.

40. *Chairman.*] Will you proceed with your statement?—In the second period, namely, from the issuing of our circular to the middle of March 1856, which I think is the time at which the return was made to the House of Lords, taking the total number, there were released 2,505; that is from the 21st of February 1855, to the 11th of March 1856. Now, in that time, the number reported to us for misconduct was 391; of these, 148 had their licenses revoked, 21 were acquitted; which is rather curious.

41. Mr. *B. Denison.*] Acquitted of what?—Of the offence: they were tried and acquitted.

42. Lord *Naas.*] Does that refer to the whole number?—Yes.

43. Sir *J. Pakington.*] You told us that that was during the second period?—The number of persons released were gradually accumulating; I made a stop at those who had been discharged at the end of the first period, but of course those still remained as persons liable to misconduct themselves.

44. Mr. *Henley.*] The 391 applied to the whole number discharged under tickets-of-leave?—Yes, they were gradually accumulating; my reason for dividing them is, the absence of any circular calling for reports in the first period, and there being a circular in the second, from which I infer that we heard of almost all those who fell back in the second period, and we did not hear of so many of those in the first; that therefore makes a total of 447 reported for misconduct in the two periods, and 179 licenses revoked.

45. Mr. *B. Denison.*] Will you be good enough to tell us what is the number of tickets-of-leave which have been issued in the two periods?—Five thousand one hundred and fifty-two.

46. How many have been reported in the two periods?—Four hundred and forty-seven.

47. How many have been revoked?—One hundred and seventy-nine.

48. How many acquitted?—Twenty-five; four in the first period, and 21 in the second.

49. Sir *J. Pakington.*] Referring to the second period, 391 were reported?—Yes.

50. One

50. One hundred and forty-eight were revoked, and 21 were acquitted?—Yes.

51. One hundred and forty-eight and 21 make 169; what has become of the balance between 169 and 391?—The balance have been convicted, and sentenced to long periods of imprisonment; the 447, with the exception of those acquitted, will represent convicts who have fallen back.

52. Mr. *S. Fitzgerald.*] With respect to the 148 whose licenses were revoked, were all those tried again?—No; some of them were summary convictions, but they have all been convicted of something, I think with one or two exceptions. I think there have been only two cases of revocation, or three at the most, where there has not been a conviction either of felony, or under the Vagrant Act, or for an assault, or something of that kind.

53. Mr. *Adderley.*] What was the cause of the revocation in those two or three cases?—Repeated representations that they were associating with thieves.

54. Suspicious circumstances?—Yes, suspicious circumstances repeatedly stated by the police and the magistrates.

55. Sir *J. Pakington.*] You do sometimes revoke them without re-conviction?—Yes, we have done so in two or three cases.

56. And do you invariably revoke after re-conviction, whatever the charge?—Invariably, unless the sentence extends over the period of the ticket-of-leave.

57. Do you happen to know what per-centage of the whole number has been reported?—The number reported were 447, and if you deduct from that the 25 who have been acquitted, it would give 422 that have fallen back; that is, 422 out of 5,152, and to that of course there must be some addition made for those whom we have not heard of. The facts are, 422 out of 5,152.

58. Mr. *Deedes.*] In cases of acquittal you do not revoke?—We do not.

59. Mr. *Adderley.*] Is it not clear from the difference of numbers, there having been 56 reported in the first period of a year and a half, and 391 in the second period of only one year, that your returns were very imperfect in the first period?—I think so; it must be so. It is obvious that we got more reports after our circular than before, and that was the very reason why I divided the time, in order to present it as fairly to the Committee as I could.

60. Mr. Serjeant *O'Brien.*] It is, as nearly as possible, eight per cent.?—Yes, eight per cent. that we know of. The Committee quite understand that I do not put that forward as a perfect return, but as a return deficient to a certain extent undoubtedly; to what extent it is impossible absolutely to state.

61. Mr. *B. Denison.*] Then the number of licenses revoked, out of 5,152 that were granted, have amounted to about eight per cent.?—The licenses revoked and re-convictions. As I explained before, we do not revoke the licenses of those who are re-convicted.

62. It includes the two?—The number of 422 includes the two.

63. Mr. Serjeant *O'Brien.*] Have you any means of telling us whether the larger proportion of those 391, who were reported in the second period, were out of the first batch of 2,647, or out of the second batch of 2,505?—We have not adopted that calculation. It can of course be made. That shall be done.

64. *Chairman.*] Is there any further information with which you can furnish the Committee, as to the facts of the case, so far as you have observed them?—I can give no further information with respect to the ticket-of-leave men themselves, but the further information must be derived from the Criminal Statistics; and with respect to that, I am prepared to state to the Committee what result is to be drawn from the Criminal Statistics of 1854, as compared with 1853.

65. Will you give us that information?—A comparison of the crime of 1853 and 1854 would embrace, of course, the whole effect of the change of the punishment of transportation, not merely the conduct of the ticket-of-leave men, but also the effect which might be supposed to be produced by the change of the law itself. Now I am sorry to say that the returns of 1854 exhibit a considerable increase upon those of 1853.

66. Have you the figures?—Yes. Taking the committals as representing the crime committed, and not the convictions, the whole committals for indictable offences (for I confine it to indictable offences) in 1853, were 27,057. In 1854, they were 29,359, being an increase of about eight per cent., which was a very serious one no doubt, and following a decrease between 1853 and 1852. The years 1852 and 1853, the last two years of transportation, had been years in which crime had been remarkably small.

H. Waddington, Esq.

17 April 1856.

67. Sir *J. Pakington.*] To what cause do you attribute the increase in 1854?—That is a matter which I feel great difficulty in answering. The increase was of a peculiar nature; it was not in the worse sort of offences, but it was principally in simple larceny; larceny from masters, and fraud. There was also an increase in the offence of housebreaking.

68. Have you any means of judging, or have you any clear opinion whether that increase arose from real increase of crime, or whether it arose from increase of detection of crime?—I should be inclined to think that it must have arisen from the increase of crime; I am not aware that there was any change in the increase of detection between 1852, 1853, and 1854: 1852, I may mention to the Committee, had been a decrease upon 1851; 1853 had been a decrease upon 1852. In 1854 there came a sudden increase.

69. Have you any reason to think that the increase in the price of articles of consumption which followed the war may have had anything to do with that increase of crime?—It very possibly may, but I am very far from stating with any confidence that it had. Some people, I believe, are of opinion that when bread is dear, people have less money to spend in drink, which I believe is a fruitful incentive to crime, and that therefore it has rather a tendency to diminish crime.

70. Is it within your recollection that the year 1848, especially, was a very heavy year in crime?—It is perfectly.

71. Were not the years 1847 and 1848 a time when the price of articles of necessity, and especially of bread, was extremely high?—I cannot recollect that; but with respect to the crime of 1848, I can state at once that the greater part of it was attributable to political circumstances; almost the whole number of extra criminals in that year were traceable to crimes produced by the political excitement which prevailed.

72. Do you remember that the years 1842 and 1843 were remarkably heavy years in crime?—Perfectly well.

73. To what do you attribute the great increase of crime in those years?—The increase in 1842 I attribute to precisely the same circumstances as that of 1848; they were two most remarkable years; the excitement in 1842, the Committee will recollect; and the number of political prosecutions was enormous; there were special commissions issued to various parts of the kingdom, and a vast number of political offenders.

74. Do you remember what proportion the prosecutions which could be called political bore to the whole number in those years?—I cannot state exactly, but I am pretty certain that they were sufficiently numerous to account for the increase; I can give the Committee the numbers in those years if they require it, and the increase in each of them upon the preceding year.

75. Then in your judgment you do not attribute any part of the increase in the years I have referred to, to the high price of provisions?—I think not; I remember my impression was at the time that the political offences were quite sufficient to account for the increase; I may mention that in 1848 there was one cause which decreased the number, to a slight extent, at least some hundreds I believe, of those tried at the assizes and sessions, namely, the passing of a most excellent Bill in the year 1847, the Juvenile Offenders Bill, by which juvenile offenders were convicted summarily for larceny, whereas they had been formerly tried at the assizes and sessions. That transferred a considerable number of juvenile offenders from the assizes and sessions to summary convictions, and therefore the real increase in 1848 was greater than it appeared.

76. Mr. *S. Fitzgerald.*] In the number 29,359 who you say were committed for indictable offences in the year 1854, do you include those who were summarily convicted under the Juvenile Offenders Act, or who were otherwise convicted summarily?—No; we only include those committed for trial at the assizes and sessions for indictable offences; I stated that I attributed the increase of crime in 1848 to political offences. I have stated there was another cause in 1848, which, instead of making an increase, made a considerable decrease, and therefore that the political offences in that year would more than cover the apparent increase in crime. The apparent increase in 1842 was larger than in 1848 considerably, owing, no doubt, to the cause I have mentioned, the passing of the Juvenile Offenders Act.

77. Lord *Naas.*] Is there any return which will show of this number of committals in 1854, what number of persons had previously undergone either a sentence of penal servitude or a portion of a sentence of transportation?—I am afraid

afraid I am not in a situation to show how many of those had been previously convicted.

78. *Chairman.*] Do you conceive that, looking at the short period which has elapsed since the passing of the Act, there is a possibility of forming any decided opinion upon the operation of the Act?—I think not; and probably the Committee will be better able to judge, when I bring before them, as well as I can, the statistics of 1855. We have made great efforts to get them as perfect as we can: they have not yet been published; I may mention, however, before I come to 1855, that in 1854 there was also a slight increase of crime in Scotland; there was an increase in Scotland of six per cent. upon indictable offences, offences of the same description.

79. Mr. *Adderley.*] While it was eight per cent. in England?—Yes; and in Scotland also as in England, following a previous diminution. Therefore, so far, that would be a result unfavourable to the change in the law, though not of a very serious character. I may mention that in 1854 the offence of burglary was exactly stationary; it was within one of what it was in 1853, and the offence of highway robbery had slightly diminished. Therefore the grave offences which most alarm society had not increased at all.

80. Mr. *B. Denison.*] This is from a report of Mr. Redgrave?—Yes.

81. That the larger offences had decreased, though the smaller ones had rather increased?—Yes.

82. Mr. *S. Fitzgerald.*] There had been an increase in housebreaking?—Yes; burglary was stationary, and there was a diminution in highway robbery.

83. *Chairman.*] Will you proceed with any further facts which you wish to bring before us?—This return, I must observe, is confined to England and Wales, as are those which I have already given. I have only given the general result as to Scotland, and no numbers; and again, in 1855, I am confined to England and Wales. At the assize courts there were tried in 1854, 4,571; at the assize courts in 1855, 4,545.

84. Sir *J. Pakington.*] At the sessions what were the numbers?—In 1854, 14,763; in 1855, 12,957.

85. Did that apparent decrease as between 1854 and 1855 arise in the last quarter of the year 1855, after the Summary Jurisdiction Act had come into operation?—It no doubt must have been affected partly by that. I will explain to the Committee presently how far I can speak upon that part of the subject. We have unfortunately no return of the number of persons in the country who have been summarily convicted under the Criminal Justice Act; we have the number convicted in the Metropolitan Police Courts.

86. Did the decrease as between 1854 and 1855 arise in the last quarter of the year 1855, after the Summary Jurisdiction Act had come into operation?—I have not got the comparison of the last quarter.

87. *Chairman.*] There is no doubt that it can be got?—It can be got of course.

88. Mr. *B. Denison.*] You have at the Home Office the number convicted at each quarter sessions?—No doubt.

89. Sir *J. Pakington.*] Have the Home Office taken any steps to ensure receiving returns of the convictions which take place under the new Act?—They will be received in the ordinary course from the inspectors of prisons, but we have not sent any circular for that purpose; we should only get them as we do the other returns of convictions.

90. Mr. *S. Fitzgerald.*] Will you be kind enough to reconcile the figures you have given us. In the year 1854 you say that 29,359 persons were committed for indictable offences, and yet you say that in the year 1854 those tried at the assizes and at the sessions only amounted to 19,334?—I have not gone through the statement; I have only given the assizes and quarter sessions; I have yet to give you the Central Criminal Court, the Recorders' Borough Sessions, and the Middlesex Quarter Sessions, which I have put distinct from the others.

91. Will you give us the number at the Central Criminal Court?—In 1854 there were tried 1,512; and in 1855, 1,210, showing again a considerable diminution, a diminution of 20 per cent. That again would necessarily be affected in the same way by the Criminal Justice Act, because the Central Criminal Court sitting in the later months of the year, after the general assizes are held, their number would be diminished no doubt by the operation of the Criminal Justice Act at the Metropolitan Police Courts, therefore this must be only an

H. Waddington, Esq.

17 April 1856.

approximate result. Then we come to the Middlesex Sessions. In 1854 the numbers were 3,119, in 1855, 2,389, being a diminution of 730 persons, or 23 per cent.; that again no doubt was much affected by the Criminal Justice Act.

92. Mr. *Wortley.*] The proportion tried at the Central Criminal Court would be less affected by that Act than of those tried at the sessions, would it not?—No doubt.

93. There is a small proportion of those minor offences tried there?—Certainly; accordingly, the diminution at the Central Criminal Court is somewhat less. Then we come to the Recorders' Borough Courts throughout the kingdom; the number of prisoners tried at those courts in 1854, was 5,394, and in 1855, 5,173.

94. Mr. *Adderley.*] That makes the whole number?—That makes the whole number; and I have gone through them in this way, in order that the Committee might be more able to get an approximate result of the effects of the Criminal Justice Act, because I can give the numbers convicted under the Criminal Justice Act at the Metropolitan Police Courts; those are the only numbers I can give. The totals of the numbers which I have just given the Committee are, in 1854, 29,359, and in 1855, 26,274; that makes a decrease in point of fact of 3,085 persons, or 10 per cent., which would be a most excellent result; but there are two corrections now to be made, the first is in favour of the year 1855. In both the year 1854 and the year 1855, there were winter circuits, but in the year 1855 there were 22 counties added to the winter circuits. In the year 1854, at the winter circuit, the gaol delivery was only at York and Lancaster; in 1855 it was for a great number of other counties. We have therefore made a calculation of the prisoners belonging to those counties who would, unless the change had been made, have been tried in 1856, and not in 1855. The number of those is 452 who were tried at the winter circuit of 1855, and who would in the ordinary course not have been tried in that year, but in 1856; therefore that number ought to be deducted from the committals.

95. Mr. *B. Denison.*] That ought to be added to the decrease?—Yes: therefore, adding that, it will amount to 3,537, or 12 per cent. I will now give the numbers convicted under the Criminal Justice Act, as far as we know them. The Criminal Justice Act received the Royal Assent on the 14th of August 1855.

96. *Chairman.*] And there is no other day fixed for its coming into operation?—No. The only immediate data for estimating the effect of the summary provisions of the Statute may be found in the trials at the Central Criminal Court, and at the Middlesex Sessions of the Peace, in the last three months of the year 1854, as compared with 1855. This will partly answer a question put by the Right Honourable Baronet. We can give the diminution in the last quarter of 1854 in the Central Criminal Court, and at the Middlesex Sessions. In the Central Criminal Court there were, during the last three months of 1854, tried 399. In the last three months of 1855, there were tried 314. At the Middlesex Sessions, in the last three months of 1854, there were tried 736; in the last three months of 1855, only 419; making, therefore, a very large decrease, no doubt. Then we find, from the returns of the proceedings of the police courts of the metropolis, that the number of convictions under the Act, in the year 1855, in August, were 9; in September, 96; in October, 141; in November, 143; and in December, 120.

97. Sir *J. Pakington.*] Are those in all the police courts?—Those are in all the metropolitan police courts.

98. What is the aggregate?—The aggregate is 509 convictions in the last three months of 1855.

99. Mr. *Wortley.*] Does that include the city police courts?—No, I think not.

100. Sir *J. Pakington.*] I apprehend that all those 509 cases, if the Criminal Justice Act had not passed, would have been tried at the metropolitan sessions courts?—Either at the Middlesex Sessions, or the Central Criminal Court, or the Surrey Sessions. The Surrey Sessions we have not got the returns for. Therefore that diminishes the result, no doubt, in favour of 1855. Still the Committee will, I believe, think, upon the whole, that it is a very satisfactory comparison.

101. Mr. *Wortley.*] All those convictions, under the Criminal Justice Act, which you have given us in the metropolitan districts, are convictions for felony, are they not?—Entirely; we have confined it to that.

102. *Chairman.*]

102. *Chairman.*] Do you wish to add anything to the statement which you have already made upon this subject?—Yes; I have statistics which I wish to lay before the Committee, namely, the number of persons sentenced to transportation and penal servitude, in the three years 1853, 1854, and 1855. In 1853, the number sentenced to transportation was 1,864; to penal servitude, 504; making a total of 2,368. This is in England and Wales. In 1854, transportations, 310; penal servitude, 2,108; making a total of 2,418. In 1855, transportation, 325; penal servitude, 2,048; making, therefore, a total of 2,373 in 1855, against 2 418 in 1854.

103. Mr. *B. Denison.*] Does this table include those who were transported at the additional number of assizes held in 1855, or have you made a deduction for that?—This includes the whole.

104. Would it not be necessary to deduct a certain number from that?—Certainly; in 1855 there would have to be a deduction made for those who were tried at the winter assizes, no doubt. We have not got the numbers, and therefore I am willing to take it as it stands, because it is still a decrease.

105. Perhaps you can get some approximation to that?—Certainly. I mention these returns particularly, because I do not think they can be much affected by the Criminal Justice Act.

106. Mr. *Wortley.*] The result is, that the numbers in 1855 and 1853 are as nearly as possible equal?—Yes; notwithstanding the number sentenced to transportation and penal servitude in those additional counties, which will be in favour of 1855. Therefore, upon these returns, all that I took the liberty of submitting to the Committee as my opinion was, that we have no evidence upon which we can say that the change in the law has produced any serious increase of crime; that was as far as I ventured to put it; and by that I still abide.

107. Mr. *B. Denison.*] The change in what law?—The change from transportation to penal servitude.

108. Mr. *Deedes.*] You refer to the effect of this Act of Parliament?—Exactly. I was asked my opinion upon that subject, and I have stated it, and the ground upon which it rests. I do not state it with any very great confidence, but still I am unable to find any reason which would induce me to believe that that change in the law has at present produced any serious bad result. That is my decided opinion.

109. Mr. *B. Denison.*] Is it not clear that if you make the allowance to which I have before alluded, for the number of persons who were tried at the assizes in the additional counties in 1855, who were not so tried in 1854, that number being deducted from the 2,373 would make it appear that crime in the large offences which are tried at the assizes had decreased after 1854 and 1853?—It would undoubtedly show a decrease.

110. *Chairman.*] Have you found under the new Act any great difficulty in dealing with the case of female convicts under long sentences?—Undoubtedly: that is the most serious difficulty which it has presented to us.

111. Will you describe it?—Colonel Jebb, who will be before the Committee as a witness, will state fully, and in detail, the extreme difficulties that the directors of convict prisons have met with in dealing with those unfortunate women; but the first great difficulty is this, that there are no means of employing them at hard labour in association. The Committee are aware that the discipline to which the male convicts are subjected is, first, about nine months of solitary confinement, and then associated labour upon public works; very large bodies are associated at Portland and Portsmouth, and other places; but for females nothing of that sort has yet been discovered; therefore it is necessary to keep them within the walls of the prison, and the difficulty, under those circumstances, of doing any good either to their minds or to their bodies is extreme. I will not go more fully into it, because Colonel Jebb will describe it in detail if the Committee wish to have it: the result is, that they are accumulating in very great numbers without proper means of employing them in prison, and with no means of giving them a chance of retrieving their position in society. Of course the Committee are well aware how much greater the difficulties are in the case of a female convict than in that of a male convict; unfortunately these female convicts are of the very worst description, generally the associates of practised thieves, and they almost invariably fall back into their old habits, and are returned upon our hands before long. Now, for them transportation was an unmixed good: they very frequently retrieved their position, and led a decent and respectable life. It would be of immense import-

H. Waddington, Esq.

17 April 1856.

ance, undoubtedly, if by either the establishment of a new penal colony, or in some other way, we could get an outlet for these unfortunate females. In Western Australia they cannot be received; it is an extremely small colony, and at present they have no means of employing them, and have declined altogether to receive them, and I am afraid there is no prospect of their being able to do so; we have made frequent applications to the Colonial Office to endeavour to get them to do so, but at present unsuccessfully.

112. Then at present there is no outlet whatever, so far as they are concerned? —None whatever.

113. Mr. *Wortley.*] At the time when transportation was abandoned to a great extent, did the old colonies object to females as much as to males, or was there any distinction?—I am unable to answer that question; but I should apprehend they did not. I should imagine that the great objection in the colonies was the congregating of immense masses of males without females; I think that the females were very often thankfully received.

114. *Chairman.*] You made a suggestion just now about establishing a new penal colony; have you any decided recommendation to make upon that subject? —No; I am not sufficiently acquainted with the state of our different colonies to be able to give any opinion upon that point. I believe that when Mr. Gladstone was Secretary to the Colonies he thought of a new penal colony in North Australia, and many other places have been mentioned. The Falkland Islands have been mentioned, and by many with, I believe, great approbation. However, if the Committee wish to go into that subject, some gentleman from the Colonial Office will be able to throw more light upon it than I can.

115. In your judgment is it desirable that a new penal colony or colonies should be established for both sexes?—It appears to me most highly desirable; supposing we should lose our present outlet for males, we should then have to retain in the country all our worst offenders, many of whom we should have to keep in prison for life, and others we should have to discharge upon the community under circumstances which would be extremely injurious to the interests of public justice, I should think. A great number of criminals are convicted of murders who are not now executed, and murders of a very serious and frightful character; burglaries with violence, and assaults with intent to commit murder, all of which are offences of a very grievous description. These persons are sentenced to transportation for life, and if we could not send them abroad, we should have ultimately to discharge them all upon this country; we could hardly treat it as a sentence of imprisonment for life, and keep them imprisoned for the rest of their days. At any rate, if we were driven to that, it would be a choice of very serious evils.

116. The *Lord Advocate.*] With respect to the female portion of the convicts, has any attempt been made to provide any remedy for the evil which you speak of in the way of employment?—About six or nine months ago Colonel Jebb got the consent of Lord Palmerston to establish a new penitentiary at Fulham for these unhappy females, in which they are kept in a sort of intermediate state before they receive tickets of leave and are sent out. The better behaved of them would be associated together, and an attempt may be made to place them under a less severe discipline than that to which they are subjected at Millbank and Brixton, which at present are the places where they are confined. When they are collected together in numbers, it seems almost impossible to observe anything like order; the ill conduct of the hardened, who are rather numerous, produces such an extremely injurious effect upon the others, that all hopes of reformation are almost impossible. But it is hoped that in this penitentiary at Fulham, to which a few are to be taken, and associated in a lighter sort of labour before they receive their tickets of leave, may be some mitigation of the present state of things; it is only an experiment.

117. It is too recent an experiment, I suppose, for any result to be arrived at?—Yes, it is hardly commenced; the prison has only just been declared a prison for the reception of female convicts.

118. Sir *J. Pakington.*] You have just stated to the Committee your opinion of the difficulty of continuing to keep all our worst class of convicts in England; is that a question to which you have given much consideration?—I have given a good deal of consideration to it.

119. I infer from what you have just stated, that your opinion inclines to the resumption of transportation?—If we could keep it exactly as it is, if we were sure that

that we should always have our present outlet to Western Australia, we might possibly be able to dispose of that class of criminals which I mentioned in that way; but my opinion most strongly tends to keeping up transportation to a certain extent, and, undoubtedly, I would much rather extend it than diminish it.

120. Am I to understand from that answer, that your judgment is in favour of resuming transportation, provided some eligible place for that purpose can be discovered?—It is, most decidedly.

121. You alluded to North Australia as one of the places which had been thought of for that purpose; have you given much consideration to the question of sending transports to North Australia?—No, I have not considered it at all; it has been so entirely a matter of colonial arrangement that I have never entered into that part of the question.

122. You have never entertained the question, how far the climate of North Australia would present an impediment to that arrangement?—No; I understood from my friend, Mr. Elliot, that Mr. Gladstone had at one time determined to establish a penal settlement there, but it was afterwards abandoned; and I mentioned it for that reason.

123. You have given some evidence on the new system adopted by the 16 & 17 Victoria, of substituting penal servitude for transportation; who arranged the sentences which are substituted for the various periods of transportation?—The Lord Chancellor, Lord Palmerston, and myself, I think, were the principal parties.

124. This scale was drawn up in part on your advice?—Yes.

125. Were any of the judges, except the Lord Chancellor, consulted upon that scale?—Not at all.

126. I understand you to say that four years of penal servitude were substituted for seven years' transportation, on account of a practice which previously existed of giving pardons in case of good conduct to persons sentenced to seven years, but kept at home at the end of four years?—Yes; it was by analogy to that practice, and, of course, considering that it was a just and equitable arrangement.

127. The practice for a very considerable number of years, I think since the year 1841, has been to send all transports who are not suffering under bodily infirmity to the colonies, has it not?—Generally speaking it has.

128. Including those sentenced to seven years' transportation?—Certainly.

129. This practice, therefore, of granting a free pardon at the end of four years has been confined firstly to those who were suffering from some infirmity, and who were unfit to go abroad?—Principally to those, of late years. There was a period during, I believe, the suspension of transportation to Van Diemen's Land, when a very considerable number were retained in this country.

130. I understand you to say that this pardon was granted at the end of four years in cases where the conduct of the prisoners had been such as to merit favourable consideration?—Yes; whose conduct was not bad; it was granted as a general rule.

131. Does it not appear to you that the very fact which you have mentioned, that this pardon was granted in the case of a seven years' sentence at the end of four years, in consequence either of bodily infirmity or of good conduct, rather tends to show that the four years' imprisonment was not considered as a full equivalent to seven years' transportation?—No, I cannot say so at all. The reason of it was, that when a prisoner was sentenced to transportation, and it could not, from some circumstances, be carried out, it was thought a fair and equitable arrangement to keep him in prison for four years.

132. Then why did you mention that this pardon at the end of four years was given in case of good conduct on the part of the prisoner; what had the good conduct to do with it?—It was a mitigation of the sentence: it was a Royal pardon; and the rule is, that the mitigation of the sentence, or a pardon, would not be granted to incorrigible or ill-conducted prisoners. The general rule was, to grant this mitigation to persons who had not forfeited their right to it by bad conduct. When I said good conduct, I did not mean exemplary conduct, but the absence of bad conduct.

133. In the case of misconduct, what would have been the treatment of a prisoner sentenced to seven years' transportation who, from bodily infirmity or other causes, was not sent abroad; in the case of his conduct not being exemplary and good?—If he misconducted himself, he would be kept a certain longer period,

H. Waddington, Esq.

17 April 1856.

which would be recommended by the directors of prisons, by Colonel Jebb, and submitted to the Secretary of State. It would depend very much upon the nature and degree of his misconduct. He would be kept perhaps half a year or a year longer, or even more than that if he was perfectly incorrigible.

134. But under the new law, whatever his conduct may be, he is released at the end of four years in a case where he would have been transported for seven?—Certainly.

135. In your judgment, looking at the whole bearing of a sentence of transportation, the severance from home, the severance from family, and the feelings of families, is a sentence of four years' penal servitude a full equivalent for a sentence of seven years' transportation carried into effect?—It must be matter of opinion; in my opinion, generally speaking, it is a full equivalent. We must consider that to some persons a sentence of transportation, if carried out, is in reality, though they may not think it so themselves, a very great benefit; it has the effect of taking them away from their old connections and habits, and giving them chances of employment which they never could get by being at home.

136. But looking to the feelings of the individuals, and the feelings of their families, do you think that that is the view which is taken of a sentence of transportation?—I think the view taken of a sentence of transportation varies exceedingly, according to the character of the individual. I have known many instances, and we have instances every day, where persons who are really unfit for transportation think themselves fit, and petition to be transported, preferring it very much to remaining in prison in this country. In other cases, I have not the slightest doubt that the sentence of transportation is one which inflicts the very greatest pain, and is looked to with the greatest terror. It depends so very much upon the nature of the ties which bind the person to this country, and his attachment to his old habits, that I think it impossible to lay down a general rule; but my opinion is that, generally speaking, the sentence of transportation had more terrors than the sentence of penal servitude.

137. You think that a sentence of seven years' transportation, when passed by a judge in court, was considered a more serious sentence than the sentence of penal servitude would now be?—I think so; I think it would produce a greater sensation.

138. Under the former law, as carried out up to the period of the passing of this Act, seven years' convicts were practically kept either in separate confinement or upon public works, for a period of three or three and a half years, were they not?—About three years, I think, generally speaking.

139. And then they were sent abroad for the remaining four?—Yes.

140. Then, I apprehend, that during those three years, passed firstly in separate confinement, and secondly upon public works, the treatment of the prisoner was the same as it is now under the sentence of penal servitude?—Exactly so.

141. So that the new sentence, in fact, places one year of confinement upon public works, as against four years of transportation?—Exactly. I may mention, with reference to that point, that the impatience of confinement on the part of the prisoner increases enormously as the imprisonment goes on, and I have no doubt that the fourth year of imprisonment is much more seriously felt by the prisoner than the year and a half, or perhaps two years of previous confinement; and, I dare say, at the end of three years, if you asked many of the prisoners whether they would be transported, or remain another year upon public works, they would prefer being transported; others, no doubt, who had connections at home to whom they wished to return, would prefer, at the end of the year being released in this country. I do not think any general rule can be laid down upon that subject.

142. I observe in this scale, that in substituting penal servitude for a sentence of transportation not exceeding fifteen years, the term of penal servitude commences at a minimum of six, and that the substitution of penal servitude for a sentence of transportation which does exceed fifteen years, also commences at a minimum of six?—Yes.

143. Why was that same minimum adopted in two very different sentences with regard to transportation?—I cannot exactly say. The object was to leave a very great latitude to the judge, which has been the principle of our English law of late years.

144. Looking to the nature of the crimes which have been hitherto visited with seven years' transportation, and the severity of that sentence, do you think it would be an improvement on the present law, as regulated by this Act, if the period

period of four years' penal servitude, instead of seven years' transportation, were extended, leaving to the Crown, of course, a power of diminishing that sentence in the event of meritorious conduct?—I think if it should turn out that the ticket of leave system has been successful upon further experience, that would be a very useful change in the law, and if that were done, I should certainly propose that the penal servitude should range from five to three years. I think I would diminish it on the one hand, and raise it on the other. I think that the jump from two years' imprisonment to four years' penal servitude which our law makes is too much; I think there should be an intermediate punishment. There might be many cases which were formerly punished with seven years' transportation in which I should think that three years' penal servitude would be amply sufficient.

145. But our criminal law at present contemplates imprisonment for three years, does it not?—It does; but it is very rarely carried out; there are probably not above two such sentences in every year.

146. Do you think that it would be an improvement in the criminal law to substitute the power of three years' penal servitude for that power now standing on the statute book of three years' imprisonment?—No; I should introduce it only in cases of transportation; I would amend this Act in the following manner: instead of saying penal servitude of not less than four years, I would say penal servitude of not less than three years, and not exceeding five years.

147. But that would be the practical result?—Yes.

148. Why was it that, as this scale of penal servitude contemplates penal servitude for life, there was no period named between 10 years and life?—The reason was, I apprehend, as I think I have already mentioned to the Committee, that in some cases it is absolutely necessary, or may be absolutely necessary, to keep the prisoner in confinement during the whole of his life; the Crown, of course, would always have the power to mitigate it; but it was thought that the court should inflict the sentence of penal servitude for life, and that the Crown should have the power of mitigating it. The framers of the Act considered that in cases where it was not necessary to keep the prisoner in prison for life, 10 years' imprisonment would be absolutely sufficient; they did not wish to give any power of imprisoning for more than 10 years.

149. Have any cases yet occurred in which sentence has been passed, either immediately or by commutation of penal servitude for life?—Yes, there have been both.

150. How many?—I cannot tell you the exact number; there have been several I know.

151. Do you know where the individual sentenced to penal servitude for life has been sent?—At the present time he would be treated exactly like other criminals; the time has not arrived at present to make any distinction between those persons and persons under sentence of transportation for life.

152. And in your judgment, you do not think it desirable that this law should be modified in the way of imposing some longer sentence of penal servitude between 10 years and life?—That is my own view; but I do not wish to express a very confident opinion upon the subject.

153. As you have expressed the opinion that it would be well to revise the shorter period of penal servitude, and, instead of seven years' transportation, to give the courts the option of passing a sentence of three to five years' penal servitude, do you extend that opinion to the two periods which are substituted for 10 years' and for 15 years' transportation; would you alter the maximum in those two cases?—No; I think I should confine the change to the period substituted for seven years' transportation; I think the others are sufficiently long; I think, in a sentence of penal servitude for 10 years, should it be thought right to apply the ticket-of-leave system to it, there would be ample room for it; you might give a ticket-of-leave at the end of seven years, and release the party with the three years' additional imprisonment hanging over him, if he forfeited the condition of his ticket-of-leave.

154. The great majority of the prisoners who come before our criminal courts are very young men, are they not?—There is a very large proportion of men under 30, no doubt.

155. Is there not a very large proportion under 25?—A considerable number, certainly.

156. Having regard to the fact as you put it, that a very considerable proportion are under 30, do you think that six years' penal servitude is a full and

H. Waddington, Esq.

17 April 1856.

fair equivalent for ten years' transportation; do you think it is as severe a sentence?—Yes; I think it is a very severe sentence indeed; I think sentences of imprisonment when you get beyond a certain point increase in severity much more in reality than they do in appearance; I should think that six years' penal servitude would be a tremendous sentence; and I also think that sentences of imprisonment of that length must be quite useless with the view of reforming the criminal; if he cannot be reformed in two, or three, or four years, I do not think that any subsequent imprisonment will be of any use.

157. With respect to your evidence upon tickets-of-leave, and what you said with regard to the number of convicts under sentence when the new Act passed, I presume that the tickets-of-leave to those men who were under sentence when the Act passed, have in every case been withheld until the usual period on public works was completed?—They have been given upon the principle of three years for seven years' transportation; four years for ten years' transportation; six years for fourteen, and so on.

158. In fact, they have in every case been given at the period when, under the old law, the man would have gone abroad?—At analogous periods.

159. You have given us a good deal of very valuable information about the tickets-of-leave; may I ask you generally what is your opinion as to the result of that experiment of tickets-of-leave in this country; do you think it successful and encouraging, or not?—My present opinion is, that there is no ground for saying that it has been unsuccessful; of course, every one must see that we cannot presume to pronounce a decided opinion upon it, for many reasons. One reason is, that the fear of the withdrawal of the ticket-of-leave will diminish every year as the original sentence is running out; of course, the effect produced by three years upon public works, or four years, as it may be, may gradually wear away, and therefore I should be sorry to express a very confident opinion as to the future conduct of the ticket-of-leave men from their conduct hitherto; but hitherto, I cannot help thinking that the mere relapse into crime of 12 or even 15 per cent., or it may be even higher than that, is very small considering the nature of the offenders. These men were almost all men who had been previously convicted three or four times that we knew of; many of them much more frequently; therefore my answer to the Right Honourable Baronet's question is, that in my opinion, the experiment has been much more successful than I had any reason to expect, or than I did expect; still I cannot state any confident opinion as to the future.

160. Assuming that for the future all convicts are to be kept in this country under sentences of penal servitude, are you disposed at present, from the experience which you have had of tickets-of-leave, to apply that system to penal servitude convicts, and to discharge them before the end of their sentence with tickets-of-leave, rather than to keep them in prison until the extreme end of the sentence, and then turn them upon society quite free and unchecked?—At present I should not be prepared to do that. I should like extremely to have the experience of a few more years of the conduct of the ticket-of-leave men. But supposing that their conduct was not worse than it hitherto appears to have been, I should conceive that the practice which the Right Honourable Baronet suggests would be a very great improvement indeed. It appears to me that having some hold over these men when turned loose upon society in this country is of immense advantage; therefore, if the experiment of the ticket-of-leave men may be considered to have succeeded, I should strongly recommend lengthening the periods of penal servitude, and applying the system of tickets-of-leave to them.

161. Is there any other point which you desire now to mention to the Committee?—Yes; there is one point, namely, that, supposing our present outlet to Western Australia continues, and there is no change in the law here, the present numbers annually sentenced to transportation will not be sufficient to supply the demand of that colony; and indeed, even at the present moment we are falling short. In the present year there is a very considerable demand. That colony is applying for more convicts, and we have not at present got enough to send them. The numbers sentenced to transportation, as I have already stated, in the last two years, have been 310 in 1854, and 325 in 1855. Adding about 50 for Scotland to each of those numbers, it will give us about 360 for 1854, and 375 for 1855. Now that number is quite inadequate to the demands of Western Australia at present.

162. Mr. *Adderley.*] What is the demand?—They call for 700 at the present moment,

moment, and it is anticipated that it may be perhaps as much as 600, or more, for some years to come.

163. Sir *J. Pakington.*] Am I to understand you that the colony of Western Australia, for purposes of labour, is now desirous of receiving convicts to the extent of 600 or 700 a year?—At least that; in the present year it requires more; but I am supposing that that will not continue.

164. I presume, after that statement, the whole of these numbers which you have given to us as having been sentenced to transportation in each of the years 1854 and 1855 have been sent abroad to Western Australia?—They have. In 1853 there were sent to Western Australia 600; in 1854 there were sent 280; and in 1855, 485.

165. Why was it that in the year 1853, out of 1,864 persons sentenced to transportation, you sent so few to Western Australia?—I presume that the demand at that time was not greater; we should have been extremely happy to have sent more. The Right Honourable Baronet is aware that we only send convicts when they are asked for from the Colonial Office, and the Colonial Office is the sole judge of whether the colony is in a situation to bear them or not; therefore I cannot answer the question why there were not more sent.

166. But all who are now sentenced to transportation are sent there after the usual period of labour on public works at home?—Yes.

167. Is it considered that Her Majesty's Government have under this new Act the power of sending abroad to Western Australia any convicts sentenced to penal servitude for the longer period substituted for 15 years' transportation?—That is a question of considerable difficulty, which is now before the law officers of the Crown. The Act is worded in very large terms, which would appear at first sight to give that power, but it has been doubted whether they would give a power in the colony of dealing with them exactly as persons under sentence of transportation were dealt with; therefore we have thought it right to take the opinion of the law officers of the Crown upon that subject, and have not yet got their answer.

168. Is there any doubt felt in the opposite direction, that the Government have the power, supposing they think it desirable, of retaining in penal servitude here for equal periods those who are sentenced to transportation?—No, there is no doubt about that at all; the power exists; it would not be exercised, of course, if it could be avoided. In that respect the convicts under sentence of transportation are precisely as they were before; they might be detained during the whole period of their sentence if it were thought right, but of course it would very seldom be thought right to do so. I may state that of the small numbers I have mentioned, some were females who could not be transported; some of the males were, of course, unfit for transportation; therefore the present number, supposing it not to increase either by any change of the law, or from some other circumstances, will be perfectly inadequate to supply the wants of the colony.

169. Do you know when these representations from Western Australia were received?—Very lately; it is about a month since we had the application for 700 convicts.

170. Do you know whether that was the first application of the kind from Western Australia?—I cannot state that positively.

171. Do you know whether any statement has been made, in this communication from Western Australia, as to the extent to which that demand is likely to be a permanent one?—I had a conversation with Mr. Labouchere upon the subject, from which I certainly gathered from him that he considered that it would be so. Possibly upon that subject it will be better for me to refer the Committee to my colleague at the Colonial Office.

172. It is not within your knowledge, I presume, whether similar demands have been made from any other colonies lately?—I think I can state that no other colony has made such a demand; certainly none that I have heard of. A suggestion has occurred to me with reference to this question, as to how we are to supply the additional numbers required for the colony, that, supposing the demand to continue, it might not be unwise to consider whether transportation for 10 years should not be re-enacted. We certainly shall never be able, if we retain only transportation for these long periods, to supply this demand from convicts under that sentence.

173. Mr. *Wortley.*] From your experience, are you of opinion that there is a large class of confirmed criminals in whom all hope of reformation is delusive?—

H. Waddington, Esq.

17 April 1856.

I am afraid that there is such a class; I hope it is not very large, but it exists beyond all doubt.

174. Under the severer code which existed in this country formerly, a large number of those persons were withdrawn from society by the punishment of death?—Certainly that was so.

175. Has it ever been a matter of consideration with the Government whether it would not be possible to devise at home, or in the immediate neighbourhood of home, in some of the islands, a place of detention where, consistently with the preservation of health, that class might be confined for life?—The question has been undoubtedly mooted, and more than once; but I do not think it has been very seriously brought under the consideration of the Government; I have never been a party to any discussions or deliberations upon that subject.

176. Is it not found that under the strict discipline of our prisons the human frame and understanding will not bear confinement beyond a certain period?—It will not bear solitary confinement beyond a certain period, certainly.

177. Nor strict confinement?—Nor strict confinement. I suppose that the period of associated labour in the open air might be prolonged to any length.

178. Is it not, on the other hand, found that many criminals who have been confined as lunatics are to a great extent cured of their lunacy, and become in good bodily health, and live to a very old age, in confinement?—There are many such cases, no doubt. There is a certain character of mind in which confinement produces a depression, which very often leads to delusions, and ultimately to confirmed lunacy.

179. Do you see any reason why, with respect to that class to which I refer, it should not be attempted to subject them, in the first instance, to the severe punishment of penal servitude, and then, during the remainder of their lives, that they should only be subject to such control, in some place of seclusion and healthy confinement, as would ensure their not escaping?—It would be a very benevolent arrangement, if it could be done; how far it is exactly practicable I do not know. The French we know have had a totally different system; they have made their confinements for life as severely penal as they possibly could.

180. The great alarm, whether well founded or not, which has been raised by the present system of tickets-of-leave, arises from the fear of that class of persons being turned upon society, does it not?—That is so, no doubt.

181. They being turned upon society necessarily within the limits of this country, whereas in former times there was the chance of their remaining abroad?—Certainly; the impression is, that there are a very large number of them who are in no way reclaimed by discipline, and that those persons are again taking to crime and joining with their old associates, thus ultimately forming an immense number of criminals whom it will be impossible to keep under any control.

182. On the other hand, with those classes of criminals who are not hopeless, transportation affords the best hope of redeeming their character and reclaiming their mind?—By far the best.

183. That if the worst characters were retained here for life, instead of being, as they are under the present system, transported for a period of 10 or 15 years, it would be possible, even with the present outlets which we have, to send those persons abroad in whom there is a hope of reformation, would it not?—It might be done, certainly; but that is regarding transportation in a view which has not been generally taken of it. The great object of transportation, no doubt, has been to relieve this country of the worst offenders; no doubt it is also extremely beneficial to all offenders, whether the worst or the least depraved; but I should think that the plan of keeping the worst offenders here, and imprisoning them for life, would not be one which would be likely to meet with the approbation of the public. I think there would be a great feeling against long imprisonment.

184. It is done in almost all other countries, I believe?—It is, I know; we have generally looked upon it with very great dislike.

185. Has not that feeling arisen very much from the belief that you cannot inflict close confinement without injury to the health?—Yes, I dare say that is so.

186. Then if the confinement after a certain period were of a mitigated character, only sufficient for security, might not that feeling be also mitigated to some

some extent?—Still it is a very frightful punishment under any circumstances, inflicting civil death upon a man without the slightest hope; it seems to be the great objection to that sort of punishment, that it does not give the slightest hope to a man; it destroys every feeling which can render life in any respect desirable, or even tolerable.

187. Then if I collect your opinion, it is rather that public opinion would not bear a punishment of that sort?—I confess it is rather so.

188. Mr. *Massey*.] Was not the congregation of convicts in penal settlements productive of very evil results?—I believe the great congregation of convicts at Norfolk Island, and even in Van Diemen's Land itself, was such as to produce frightful results.

189. The dispersion of them by means of tickets-of-leave through the colonies was, on the whole, a successful experiment, was it not?—I have no doubt of it; as long as there were settlers who would employ them, the greater the number of convicts the better; it was only when they could get no employment, and were congregated in large masses, that they became such a nuisance.

190. Then may I infer, that if it were possible now to find a settlement in which these convicts might be congregated together, you would consider it a desirable substitute for the ticket-of-leave system, a novel experiment which has been tried in this country?—I should be very sorry that all the evils which are reported to have taken place in Norfolk Island should be repeated anywhere. I am strongly opposed to forming such an institution as that, certainly. My notion of a penal colony is, that it must be one which is created. I do not think that you would get any established colony now which would be disposed to take our convicts; that is out of the question. Therefore, what occurred to my mind was, the creation of a new penal colony, in the same manner as the Australian colonies were originally created. They were created as penal settlements.

191. Mr. *Adderley*.] I do not think you stated the period at which the last kind of transportation began, namely, the three several stages?—That I think was in 1848. When transportation was recommenced in Van Diemen's Land, the system was remodelled by Lord Grey and Sir George Grey, and I think that was the time when the present system was commenced, namely, solitary confinement and hard labour on public works previous to being sent abroad.

192. The old system had ceased after the Report of the Committee of 1838?—I think so.

193. What was generally the practice of transportation between those two periods of 1838 and 1848; how was the sentence of transportation carried out in that interval?—I would rather refer you to Colonel Jebb upon that. I think there was a plan of Lord Derby's which was tried in Van Diemen's Land, by which the convicts were collected in a sort of penal establishment in large numbers until they could get employment, which they sometimes succeeded in doing, and sometimes not. I am afraid that did not succeed; but no doubt Colonel Jebb, or some gentleman from the Colonial Office, can give you the exact minutiæ of it.

194. *Chairman*.] You stated that you came into office in 1848?—Yes.

195. Therefore you are not personally acquainted with what took place before that time?—No.

196. Mr. *Adderley*.] The mode of carrying out the transportation varied so materially between the years 1848 and 1853, that it was a very different sentence practically at the different periods of that time?—Quite so.

197. Can you state more clearly how it happens that the number which is represented in your first table as having been actually transported in the year 1848, is only 50 per cent. of those sentenced to transportation, while in the year 1852, the last year before the passing of this Act, nearly the whole 100 per cent. were transported?—I think in 1848 transportation was only very partially commenced. It had been discontinued altogether, I think, in 1846 and 1847, and I think it was only partially recommenced in 1848. I think I could give you the numbers.

198. In the last period, looking to the practical mode of carrying into effect the sentence of transportation, at the time when this new punishment was substituted for it, the actual transportation from this country was a mode of sending the convict, after punishment completed, to another country, rather than a part of the penal sentence?—Certainly; the most penal part of transportation then was the separation.

H. Waddington, Esq.

17 April 1856.

199. But the penal part of the whole sentence was ended, and was practically completed at home, before the convict was sent to a colony?—Certainly. If he was sent out with a ticket of leave, the theory was, that he would immediately get into service.

200. The portion of the sentence which ended in exit from England was looked upon as the only penal part of the sentence?—Except so far as it separated him from his native country; and when the sentence was over he was not brought back, but would have to find his own way back, if he could do so.

201. When you recommend, if possible, the resumption of transportation, is it that last species of transportation which you recommend to be resumed in preference to the former?—I should recommend it to be resumed, or rather to be extended, as it is now. I believe the present system, in preparing the transports for tickets-of-leave abroad, is a very good one. I fancy it has had very great success. That there has been a marked improvement in the colonies is admitted, even by those most opposed to transportation. The persons who have been sent out since 1848, and particularly of late years, are quite a different class of human beings from those who were sent out under the old system. Therefore, if the system could be extended, so far as my opinion goes, I should recommend that it should be carried out as it is now.

202. The kind of transportation which you would seek to resume would be with the object of affording a man who had completed his sentence here the means of earning a livelihood in a new country rather than with the object of carrying out a penal sentence with actual surveillance and restraint over the man in the colony?—Certainly; he would be subject to restraint, of course, in the colony by the ticket-of-leave being revoked if he misconducted himself there; but the great object would be, in the first place, to get rid of him ourselves, and in the second place, to give him the opportunity, if so disposed, of becoming a decent member of society.

203. I conclude that in all your recommendations in approbation of transportation, you are looking simply to the interests of this country and of the convicts themselves?—Yes; I am very far indeed from supposing that we could reasonably call upon any established colony to take them against their will.

204. Are you of opinion that the sort of criminals whom we should seek to send out are the worst?—I am.

205. In fact, the two classes whom you seek to remove out of the country are, in the first place, female criminals, and, in the second place, the worst class of male convicts?—Decidedly.

206. Are you aware whether Western Australia, in seeking for convicts, has expressed any opinion as to the kind of convicts who ought to go out there, or whom it wishes to receive?—I have not heard any opinion expressed as to that, except that they have expressed a very strong desire to have able-bodied men and skilled labourers, artisans if possible, as distinguished from agricultural labourers; there is a very great demand for those.

207. In the last practical mode of carrying out the sentence of transportation, did it become the general practice to give pardons at the end of four years, and was any longer detention an exception?—It was; that was in the case of a sentence for seven years.

208. Immediately preceding the passing of the Act of 1853, in the great majority of instances, were those prisoners who were sentenced to seven years' transportation released from detention at the end of four years, and sent abroad, with the exception of those who were too weak?—The majority of those under sentence of seven years were not kept here for four years; I think not more than three. When Lord Palmerston was Secretary of State, he directed the period of solitary confinement to be diminished from a year to nine months, and that had the effect of abridging by three months the detention in this country; therefore I think at last the detention hardly amounted to more than three years.

209. Under what terms did the convicts generally go abroad?—Under tickets-of-leave. It was the theory that after a detention on public works, they should go abroad with tickets-of-leave. There have been cases, I believe, where there was not an immediate demand for them, and therefore the giving of tickets-of-leave has been suspended, and it has been left to the governor of the colony when the demand arose.

210. Has not there been some confusion created in the public mind by a confused use of the terms "ticket-of-leave," and "license to be at large"?—Yes.

211. The ticket-of-leave, under which a man having been confined 3 ½ years was sent abroad, was a very different thing in its effects from the licence to be at large, which is provided for in the Act of 1853?—Yes, quite different, undoubtedly.

212. How far was a man short of being at liberty who went to a colony at the end of 3½ years with a ticket-of-leave?—His position was this: Supposing he had a ticket-of-leave granted to him, he was then at liberty to engage himself to any master, and if he misconducted himself, he was liable to have his ticket-of-leave revoked, and to be placed upon public works, or treated in any other way that theGovernment thought proper. The general practice was, that after he had conducted himself with a ticket-of-leave well for perhaps two years, he received a conditional pardon, which put him in a much better situation.

213. Do you conceive, practically, that there would be much use in a licence to be at large in the way of keeping up surveillance and control over a man in this country?—It has not been used at present for the purpose of keeping up a surveillance, but it might of course be used for that purpose, because the terms of the Act give the power to impose any condition the Crown thinks proper; therefore the Crown might impose the conditions which are imposed in France of the surveillance of the police, and it might impose the condition upon the convict of going to a certain place, and presenting himself once a week, or once a month, before a magistrate. It might be used in that way undoubtedly, but it has not been so.

214. Do you believe that, practically, in this country it could be carried out?—I think it might to a certain extent, but I should be extremely unwilling to recommend it. I think the great good of the system is, that it puts the man in the first instance in the condition of a man who has served out his sentence; he may go where he likes, and engage himself where he pleases; he has full notice of the consequences of misconduct, and if he does not choose to avail himself of the leniency of the Crown, it is his own fault; there is every motive for him to do so.

215. By the Act of 1853, the Crown has the right to give him a licence to be at large at any period of time; it may be after a week?—Certainly. In cases where life has been endangered by the confinement, the licence has been given almost immediately afterwards.

216. As a general rule, as a reward for good conduct, in your view, what portion of the sentence ought to have expired before the licence to be at large is given?—I think that the terms acted upon at present are as proper as any that I can suggest; it is not as a reward for any remarkably good conduct; it is a reward for the absence of misconduct; I think that a seven years' transport, who does not misconduct himself, might be fairly entitled to a licence to be at large at the end of three years, that being the time when he would be transported with a ticket-of-leave.

217. Take the corresponding period of four years' penal servitude, how much of that do you think should have expired before a licence to be at large is given?—At present we do not propose to give licences to persons under penal servitude at all; we consider that being released at the end of four years and becoming a perfectly free man is about equivalent to being released at the end of three years with the revocation of the licence hanging over him. A licensed man is in a very awkward position in many respects; in the first place, he is still under a sentence of felony; he cannot possess any property; any property that he may get belongs to the Crown; so that he is by no means in a good situation when he receives his licence; whereas a man with a sentence of four years' penal servitude, when he has gone through his sentence, is a perfectly free man, and may acquire property, and do what he likes.

218. What is the practice in discharging a man with a licence to be at large now; is he sent to any particular place?—No, he is never sent to any particular place; the general rule in those cases is to give him a licence to be at large any where within the United Kingdom, leaving it entirely to his own choice to go where he pleases; in some instances, men of very bad character, who have been supposed to be still in connexion with their old associates, have been restricted from going to certain places; we have restricted some notorious London thieves from the metropolitan district, and so in two or three other cases; we have also restricted some in the provinces from going back to their own neighbourhoods.

219. Has there been any change in the practice in that particular?—Yes, there has been a change; that restriction was not introduced until about three months ago.

H. Waddington, Esq.

17 April 1856.

220. That is a change which has not been tested by experience?—Yes. I am by no means certain that it is a beneficial change myself. I am rather inclined to think that, upon the whole, it is better to give them an unlimited range.

221. Mr. Serjeant *O'Brien.*] Are you able to give the Committee a similar return, as regards Ireland, to what you have given as regards Great Britain?—No, I am not. The Lord Lieutenant of Ireland has mentioned that he thinks it desirable that the whole system in Ireland should be brought before this Committee, and the Chairman of the Board of Directors will come over and give evidence upon this subject. The management of the convicts in Ireland is left entirely to the Irish Government.

222. Then you cannot tell us the number as respects Ireland?—I can give you the returns of the numbers sentenced, and also of the numbers transported.

223. You have given us returns as to England for five years, namely, 1848, 1849, 1850, 1851, and 1852?—Yes.

224. Can you give us the corresponding returns for Ireland?—Yes. The number sentenced to transportation in Ireland in 1848 were 2,729, the number actually transportrd 804. In 1849 there were sentenced to transportation 3,073, and actually transported 642. In 1850 there were sentenced to transportation 1,858, and actually transported 588. In 1851 there were sentenced to transportation 1,978, and actually transported 310. In 1852 there were sentenced to transportation 1,411, and actually transported 570.

225. How many were sentenced in 1853 to transportation, and how many to penal servitude in Ireland?—There were 973 sentenced to transportation. I have not got those sentenced to penal servitude in Ireland.

226. Are you able to suggest any cause for the very large number in Ireland during the years 1848 and 1849; do you recollect that those were the years after the distress from the famine?—Yes; I know that the effects of the famine in Ireland lasted a great many years afterwards.

227. There were sheep-stealing cases?—Yes, a great number.

228. Would that at all account for the very large number of criminals during those years?—Yes, to a very great extent. The diminution of crime in Ireland since 1848 has been something quite unparalleled, I believe, in the history of any country; the reduction has been enormous.

229. Can you account at all for the small proportion which those who were actually transported bear to the number who were sentenced?—I am afraid I can. The truth was, that there was very little demand for the Irish convicts; they were of a very inferior description to the English, and were not found so available. That has been a subject of very frequent complaint; it is mentioned in the last return of the Irish convict prisons.

230. I suppose you cannot give the number of those whose sentences were commuted?—I cannot. It is entirely in the hands of the Irish Government; we never interfere with the commutation of sentences in Irish cases.

231. Mr. *Wortley.*] Did I understand rightly, that according to the present determination of the Government, it is their intention, in all cases of sentences of four years' penal servitude, to detain the prisoners for the whole time?—Yes, as a general rule, certainly.

232. Supposing there is no exception as to health or other unusual circumstances?—Yes; a bad accident on public works is always considered to entitle a man to mitigation; sometimes valuable information given to the Government is a ground of mitigation.

233. I know that a considerable embarrassment sometimes occurs in the minds of judges from not knowing what the actual effect of their sentences is; have you any objection to state the actual course of the Government with respect to prisoners who are respectively sentenced to eight, six, or four years' penal servitude, which are the common sentences of penal servitude?—With respect to four years it is clear; they would be treated as criminals formerly were; they would be kept nine months in solitary confinement, and the rest of the period on public works either in England, or at Bermuda, or Gibraltar; but with respect to longer periods, no doubt, for the first four years, they would also be kept in the same way, and I suppose they must be continued in the same way. None of those cases have arisen at present, and therefore the question of making any alteration in the mode of treating them after the four years has not arisen, and has not been considered.

234. Do you think that, to hardened criminals, such as that class which I have referred

referred to before, a ticket-of-leave is really any boon at all?—I do not know what to say to that; that will depend very much upon what impression their confinement has made upon them, and how far they are influenced by the obvious inducement which they have to conduct themselves well.

235. Are not they so marked, and well known, and pursued by the police, that it is impossible for them to obtain respectable employment?—It is very difficult, no doubt, and that is one of the very strong reasons for wishing to continue the system of transportation. Very often, even if men wish to reform, they have not the same chance that a person not so notorious a criminal would have.

236. Does not it very often end in this, that they are so far influenced by their punishment that they are more cautious of committing crime themselves, but that they take to teaching others?—That would be the case with some who fell back, no doubt; but I am inclined to hope that generally it may produce better effects than that. The fear of revocation may restrain them from committing any crime at all. It is not merely an indictable offence which occasions a revocation, but any offence, even an offence against the Vagrant Act, which may be nothing more than their being seen with a person in the street under suspicious circumstances.

237. Lord *Naas.*] What were the two or three instances in which you revoked the licence without the proof of some offence?—One was where a man in Scotland beyond all doubt had committed an offence, but could not be put upon trial from the death of a witness; some case of that sort where there was no doubt of the committal of an offence.

238. Mr. *B. Denison.*] Do you happen to remember whether the objection of the colonies to receive these convicts arose from the bad conduct of the convicts themselves or otherwise?—It arose from a great variety of circumstances mixed together; partly no doubt from the feeling of degradation, partly from the bad conduct of the convicts about the year 1845, and very much from the increasing prosperity of the colonists, by whom it was felt as a great degradation, of course.

239. If the ticket-of-leave system appears from experience to work tolerably well in England, in your opinion, is it not likely that the opposition to receiving the convicts in the colonies would subside?—No; I do not think it would affect the colonies at all. There is a very great difference between making the best you can of your own convicts, and receiving large quantities from another quarter.

240. Mr. *Adderley.*] Supposing the Government make up their mind to make no further use of licences to be at large, will not the sentences which have already been passed under this Act be very much aggravated by such a resolution on the part of the Government?—At present the Government have no intention of applying licences to cases of penal servitude, except in exceptional cases; therefore it would make no difference in cases of penal servitude. With respect to cases of transportation, it would be the greatest possible hardship if the system of licences were revoked, and nothing similar substituted for it. I presume that if the system of licences were discontinued, persons under sentence of transportation who could not be transported, would, as before, be released in due time upon a free pardon.

241. Have not the judges stated, at the time of passing sentence, that the prisoners might, as an encouragement to good conduct, receive licences?—Some have; it was a mistake, undoubtedly; it has not been frequent. There have been some such cases, I believe, and it has excited hopes, no doubt, in the convict to whom it has been addressed.

242. Have any sentences been mitigated since?—A great many sentences have been mitigated, not owing to representations held out to the convict, but owing to a mistake on the part of a learned Recorder; a natural mistake, for which I am sure I do not blame him at all; he passed very extreme sentences of penal servitude in many cases, under the impression that the prisoners would have tickets-of-leave, and upon finding that such was not the case, he very properly wrote to Sir George Grey, to beg that the sentences might be mitigated, and that has been done; but those were entirely exceptional cases, owing to a misapprehension of the learned judge.

243. Lord *Naas.*] Have the Home Office made any effort to follow these ticket-of-leave men, and to find out their course of life generally?—None at all; it was thought far better to give no directions whatever to the police upon the subject, but to leave them precisely in the situation of men who had served out the whole period of their sentence.

244. Do you think it would not be possible, without subjecting them to a certain amount of surveillance, which would be objectionable, to find out what

H. Waddington, Esq.

17 April 1856.

was their course of life?—It would not be very easy, I think; we could only do it through the means of the police, and of course where the watching of the police is required, that is, to a certain extent, a surveillance, which is observed by other persons, and which makes the person watched a marked man. We have received a great deal of voluntary information upon the subject, of course, from the heads of the police of different places, not only of men who had misconducted themselves, but of men who were likely to do so.

245. Have you had any information of a more satisfactory character from the police that these men are going on well?—Colonel Jebb has had the information upon that subject. They write generally to the chaplains. There is a great deal of correspondence with these men after they are released, and I believe Colonel Jebb will be able to give the Committee a good deal of information upon that subject.

246. Then the chaplains of the Government prisons have been in the habit of keeping up some communication with them?—Yes, they have.

247. Mr. *Adderley*.] Do you perceive no danger of an arbitrary and almost tyrannical treatment in the discretionary power of revoking licences?—It is a very large power, I must admit. Like all other arbitrary powers, it may be abused, certainly. I hope it will never be abused. It is necessary to exercise the power very strictly indeed, for the protection of the public. If it were not so, the whole advantage of the licence would be at an end; but I quite agree that it is a power of an arbitrary description.

248. *Chairman*.] You stated, in answer to the Right Honourable Baronet, that in your opinion the present Act might be improved in one particular; with regard to the minimum period of penal servitude, you suggested three years, I think, instead of four?—Yes; I rather qualified that opinion; I said that if it was thought that the system of granting licences to be at large had not turned out a failure, if it was thought to be successful, I then considered that it might be extended to cases of penal servitude, and then I should recommend that the sentence of penal servitude should be changed, and that it should be not exceeding five years, and not less than three, which, I think, would be an improvement.

249. Is there any other point in which, from your observation and experience, you would suggest to this Committee that the Act is capable of improvement?—It has struck me that if the sentences of transportation which are now passed should not become larger in number than they are at present, and if we should retain our outlet to Western Australia, it will be necessary to make some change in the law, in order to secure a sufficient number of convicts under sentence of transportation; I think that if it were ascertained that that was necessary, the only way to do it would be to return to transportation for 10 years; that would give us an additional number of convicts under sentence of transportation of from 800 to 1,000 every year; say 1,000; then taking away from that number one-fifth for the females who could not be sent to Western Australia, that would leave 800; and taking away from that again one-third unfit for transportation, it would just about give us the number we want, supposing that there is no other change in the law. Therefore I confess that I think it would be a matter for the consideration of the Committee whether, under present circumstances, we might not be in a condition to return to transportation for 10 years.

250. Have you any other suggestion to make with regard to the subject of our inquiry?—No, there is no other suggestion which I have at present to make.

Lunæ, 21° *die Aprilis*, 1856.

MEMBERS PRESENT.

Mr. Baines.	Mr. Massey.
Sir John Pakington.	Mr. Beckett Denison.
Lord Naas.	Mr. Deedes.
Mr. Adderley.	Mr. Seymour Fitzgerald.
Mr. Wickham.	Mr Monckton Milnes.
Mr. John Wynne.	

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Horatio Waddington, Esq., called in; and further Examined.

H. Waddington, Esq.

21 April 1856.

251. *Chairman.*] HAVE you with you a comparative statement of the number of persons sentenced to transportation and penal servitude in the years 1853, 1854, and 1855?—Yes; I had the honour to hand in to the Committee on Thursday a statement of the actual numbers, which is now in evidence, and it was then suggested by the Honourable Member for the West Riding of Yorkshire, that in order to make it perfectly correct, the Committee should have an exact comparative idea of the numbers sentenced in those three years. The return for 1855 should be corrected by deducting those who were tried at the winter assize in that year, and sentenced to penal servitude and transportation, there having been no winter assize held in either of the preceding years; that is to say, for 22 counties; there was such an assize held in all the three years for York and for Lancaster, but in 1855 there were 22 other counties added, in which there was no such assize in the two previous years; therefore, of course, it would be unfair to the year 1855, in comparing the three together, to add to the number in 1855 those sentenced at that winter assize coming from those 22 counties. I have, therefore, deducted them now from the number of those sentenced to transportation and penal servitude in 1855, and the deductions are 25 sentenced to transportation and 56 sentenced to penal servitude, making a deduction of 81; that makes the comparative numbers for the year 1853, 2,368; for 1854, 2,418; and for 1855, 2,292; making therefore a considerable diminution upon 1854, and a slight diminution upon 1853.

252. Will you now hand in the table?—(*The Witness delivered in the same.*) *Vide* Appendix.

253. Mr. *B. Denison.*] This diminution of 126 between 1854 and 1855 is upon the graver offences which were tried at the assizes?—It is upon persons wherever tried, whether at assizes or sessions, sentenced to penal servitude and transportation; therefore no doubt they were the graver offences.

254. *Chairman.*] Have you any further information with you which you think would be of service to this inquiry?—Yes. Since I had the honour of being examined before, I have obtained returns from Ireland, stating the number of prisoners under sentence of transportation at the time of the change of the law, who have since been discharged in that country. This return extends from the 1st of September 1853 to the 10th of April 1856; therefore it extends somewhat later than the returns which I have before given, and it gives of male convicts discharged with free pardons 1,149; of females discharged with free pardons 21, making 1,170; to those must be added 371 male convicts who have returned to Ireland from Bermuda and Gibraltar; those are upon pardons. Then the next table is the number discharged upon licence, which, as I had the honour to mention to the Committee, was extremely small, amounting to 20 males and nine females in all, up to the 10th of April 1856. I will also hand in these tables, if the Committee will allow me. (*The Witness delivered in the same.*) *Vide* Appendix.

255. Lord *Naas.*] Can you tell the Committee the number of convicts in Ireland during that period?—I cannot; I have not got those returns; but that could be very easily obtained.

256. You say that 371 returned from Bermuda and Gibraltar in that time?—Yes.

257. Can you tell how many returned to England from Bermuda and Gibraltar in the same time?—That I can obtain very easily.

258. *Chairman.*] Will you be so kind as to do so?—Yes. I am not sure whether that is or not contained in the return which I have handed in.

H. Waddington, Esq.

21 April 1856.

259. Mr. *S. Fitzgerald.*] Were those 371 who returned prisoners whose sentences had expired?—They had worked out the portion which was supposed to entitle them to a free pardon, if not transported; they had not worked out their full sentences.

260. Those were the prisoners who had returned from Bermuda and Gibraltar?—Yes.

261. You send none there except those who are under sentence of transportation?—None formerly, but we have of late sent males under sentence of penal servitude.

262. For long periods?—For long periods. The Act enables us to do that; it puts persons under sentence of penal servitude under all the statutes which govern the treatment of persons under sentence of transportation.

263. Then none of the 371 were discharged with tickets-of-leave?—None; at least I believe not. It is not stated whether any of them formed a portion of the 20, but I should think not, in all probability. There were only 20 discharged in Ireland upon tickets-of-leave altogether.

264. Have any of those returned from Bermuda or Gibraltar been discharged to Ireland upon tickets-of-leave?—No, I presume not. This is the whole number of tickets which have been granted in Ireland to any convicts whatever.

265. *Chairman.*] Have you any other document or any further information to give to the Committee?—No; there were two documents which are no doubt of great importance, asked for by two Members of the Committee, which I will endeavour to procure. One was the number of persons discharged under tickets-of-leave, reported for misconduct, who formed a portion of those released in the first period. It will require a great deal of trouble to procure it, but I have no doubt we can do it in time. We must go through the nominal list and compare them all; but that return I will endeavour to get. The second document was a return for the year 1854, of all the persons convicted who had been previously under sentence of transportation, or of long terms of imprisonment; that we will endeavour to get. We must write a circular to all the gaolers; but we will obtain the information as far as we can.

266. You hope to be able to put those documents in at a later stage of the inquiry?—I will do so, as soon as we get them; I am afraid the latter will be very imperfect, because the gaolers will only give us a portion; I am afraid many will have escaped notice.

Thomas Frederick Elliot, Esq., called in; and Examined.

T. F. Elliot, Esq.

267. *Chairman.*] WHAT office do you hold?—I am Assistant Under Secretary of State in the Colonial Department.

268. Have you had opportunities of becoming acquainted with the subject of transportation?—I received my appointment in 1847, and I have ever since had direct charge of all correspondence on transportation; that is, for about nine years. Early in life I had a good deal to do with correspondence with Australia, and after a short service in Canada, I was head of the Emigration Department, and sent about 40,000 or 50,000 emigrants to Australia. I have, therefore, long taken an interest in Australian affairs.

269. About how many years was transportation adopted by this country as a principal means of secondary punishment?—As a principal means since the creation of the Australian colonies; there was previously, as is doubtless well known to the Committee, an irregular sort of banishment to North America. It was a very anomalous and very limited proceeding; the people were sent out in a kind of slavery, being able to redeem their liberty by labour. But New South Wales was founded about the year 1784, and then transportation began as a regular means of secondary punishment.

270. New South Wales was founded, I believe, as a colony expressly for the reception of offenders?—Exclusively for the reception of offenders. Van Diemen's Land was founded not long afterwards, and divided the reception of convicts with New South Wales.

271. Was that founded also expressly as a colony for the reception of convicts?—Expressly as a colony for the reception of convicts.

272. Do you remember the Select Committee of the House of Commons appointed to consider the subject of transportation in the year 1837, who sat in that year and the following year 1838, called Sir William Molesworth's Committee?—I do;

—I do; that Committee would probably afford the best starting point for any one who wishes to study the history of this subject. Their Report is a monument of industry and of systematic inquiry. At the time, it was supposed that the Chairman and the more influential members had a strong preconceived opinion against transportation; and it appears singular enough now, when we hear all the colonies complaining of receiving convicts, that the first effect in Australia was great annoyance at seeing the terms in which transportation was described in that Report.

273. I believe the Report was decidedly unfavourable to the continuance of transportation as a punishment?—Decidedly unfavourable. The system which prevailed at that time in Australia was what was called the system of assignment. It had some considerable advantages; the convicts used to be assigned to private masters, and the result was, that they were dispersed all over the country in small parties; they came under a sort of domestic discipline and formed part of a regular household. These influences were very favourable, but the drawback was, that in the hands of tyrannical masters the system might be very oppressive, and that other masters went to the opposite extreme; they tried to bribe the convict, so to speak, to do more work by undue indulgence; the Committee therefore condemned the practice as very unequal, and open to great abuses.

274. I think you say that that opinion so expressed by the Committee, and reported by them to the House, did not at first meet with concurrence in the Australian colonies themselves?—It by no means met with immediate concurrence. All the principal authorities, not merely executive but legislative, complained of the account given of the state of the colonies; they said that the picture was overcharged and partial. By degrees, however, the number of free people grew greater and greater in those colonies, and they began to look upon the reception of convicts as a stigma and a taint, and were much more warm against transportation than anyone in England.

275. What measures were adopted by the Government of this country in consequence of that Report?—The Government at home were immediately influenced to a great extent by the Report. They took measures to increase the penitentiaries; Pentonville was built in consequence of the Report of that Committee; they increased the number of people sent to Bermuda to be kept at hard labour; they commenced sending convicts to Gibraltar, and not long afterwards, in the year 1840, they discontinued transportation to New South Wales altogether. I ought to explain, that some years after transportation, properly so called, to New South Wales was discontinued, there was a qualified transportation of men called exiles; they were no longer in the convict condition, they were pardoned men, sent out to spend the rest of their days in New South Wales. This lasted but for a short time, and the numbers were not large.

276. Can you state in what year that took place?—To the best of my recollection it was about 1846.

277. Why was it discontinued?—I think that the growing dissatisfaction of the colonists in New South Wales led to the discontinuance even of that limited transportation.

278. And it finally ceased even in its qualified shape at that time?—It did.

279. Mr. *B. Denison.*] In what year?—About 1848.

280. Mr. *Adderley.*] What was its commencing date?—I apprehend it lasted but two years; about 1847 and 1848.

281. *Chairman.*] What number of persons were sent out under the exile system?—About 2,000; I see by a return I have, that it was a little later than I thought; it was in 1849 that it finally ended.

282. Will you give us a summary of the different measures that were taken with regard to the colony of New South Wales, as consequent upon the Report of the Transportation Committee of 1837?—After the immediate measures which I have already described of increasing the number of convicts sent to Bermuda and Gibraltar, and of building Pentonville, and discontinuing transportation to New South Wales, the next most important step taken was by the present Lord Derby, when he was Colonial Minister.

283. Mr. *B. Denison.*] In what year was that?—In the year 1842. Finding that by the discontinuance of transportation to New South Wales, a much greater number of men than before must go to Van Diemen's Land, Lord Derby appears to have felt that it was very important to set up as good a system of discipline as possible. A very elaborate despatch was accordingly written out, providing for four or five successive stages of probation among these convicts until they should

T. F. Elliot, Esq.

21 April 1856.

be pardoned. Any one who refers to that despatch will see what great pains were taken on the subject; but two occurrences defeated the success of Lord Derby's efforts; one was, that the immense number of convicts poured into that small island, produced such a congregation of the criminal class, that the corruption amongst them became unconquerable. The other unfavorable circumstance was, that this great supply of labour far outran the colonial means of employment. The reward held out to well-conducted convicts had been, that on release they would get good employment at wages there, and so they had done formerly, but when their number was so large, nobody wanted them, and it was rather a misfortune to a convict to be set at large; concurrently with this, the most terrible prevalence of unnatural crime appeared amongst these immense numbers of males sent out without women. This created a natural and a very laudable horror in the minds of the colonists, and I have no doubt that from that period we may date the great antipathy of the colonists to the continuance of transportation.

284. Sir *J. Pakington.*] You are speaking now of the colonists of Van Diemen's Land?—Yes. When Lord Derby experienced these disturbing causes, he perceived that it was impossible to go on sending this vast number of male convicts only to Van Diemen's Land, and the expedient which occurred to his mind was, to found a new penal colony. Almost immediately before leaving office, in I think the year 1846, Lord Derby threw out the first idea of forming a penal settlement in North Australia; Mr. Gladstone succeeded to Lord Derby, he elaborated all the details of the plan, and intended to carry it into execution.

285. *Chairman.*] Was there any suspension of the transportation to Van Diemen's Land before 1847?—Yes; Mr. Gladstone's first measure on taking the seals of the Colonial Office, was to suspend transportation to Van Diemen's Land. Whatever else might require to be done, he considered it indispensable to put an end to the horrible facts of which he was then receiving accounts. Transportation to Van Diemen's Land was accordingly suspended for nearly two years.

286. In 1846 and 1847?—Yes. When Mr. Gladstone quitted office, Lord Grey, as Colonial Minister, in consultation with Sir George Grey, as Home Secretary, resolved to give up the plan of North Australia; he considered that the project of a new penal settlement was open to insuperable objections, and he reverted to Van Diemen's Land, meaning to send out a smaller number of prisoners.

287. Was any new system then adopted?—Yes. Under Lord Grey's administration a system was also prepared with great pains. The plan resolved upon by the Government at that time, and which continued in force until transportation to Van Diemen's Land ceased, was this, that every convict, without exception, should undergo a period of from one year to a year and a half of imprisonment in England; that after that he should be kept for a period varying from one and a half to three years at labour on public works in England, or on the public works at Bermuda and Gibraltar, and that after those two preliminary stages every convict, without exception, should be transported to the colonies, and remain there. This was the general scheme. Then Lord Grey was exceedingly anxious to improve the discipline in Van Diemen's Land. When the number of convicts suddenly had become so large, the existing number of officers was quite inadequate to keep the people in order; great confusion ensued, and great abuses. Lord Grey was fortunate enough to get a very able man to go out as head of the convict establishment. Sir William Denison at that period also succeeded to be governor, and those two officers, whatever else may be thought of transportation, did certainly succeed in bringing the convicts there into excellent order.

288. Sir *J. Pakington.*] Who was the head of the convict establishment to whom you allude?—Mr. Hampton, the Comptroller-general of Convicts. Lord Grey and Sir George Grey also thought of another very natural expedient. A difficulty it was obvious had arisen from the overcrowding in Van Diemen's Land. Lord Grey took all the measures in his power to persuade other colonies to take a share of the convicts. If four or five colonies had taken the same number as went to Van Diemen's Land, none of these evils that we heard of might have occurred; but all the measures taken with that view failed. New South Wales, although invited to receive them again, after some indecision, eventually refused to have any convicts.

289. *Chairman.*] In the year 1847, was not there a Committee of the House of Lords, who sat and reported upon this question of transportation?—Yes; there

was a Committee of the House of Lords, which reported very strongly indeed in favour of the punishment of transportation.

290. I believe that Committee examined a great number of the judges, and a number of other persons whom they thought likely to throw light upon the question?—They did; and the opinion of the majority of the judges was very strongly indeed in favour of the continuance of transportation.

291. Was it in consequence of the report of that Committee, among other considerations, that Lord Grey used those endeavours to which you are now going to call our attention, to induce the colonies to take more of those convicts?—Undoubtedly it was; several causes, I think, concurred in inducing Lord Grey to make those endeavours. He had this weighty report of the Committee of the House of Lords urging an attempt to save the punishment of transportation; he had reports from the inspectors of prisons, describing great success in the new system of discipline at home, stating that the prisoners were much better conducted than they used to be; and armed with these documents, he applied to different colonies, holding out hopes that they would find convicts not so bad as they had been, and also offering to them certain advantages if they would listen to his wishes. New South Wales, however, as I have said, after considerable doubt and difference of opinion in the colony itself, finally declined. The Governor of New Zealand represented, that a colony of that kind, inhabited by numerous warlike aborigines, was totally unfit to receive English criminals. Some of the tropical colonies were tried; the Mauritius and Ceylon; but there the authorities said that no Europeans could be placed.

292. Owing to the warm climate?—Owing to the climate. The Cape of Good Hope, it must be familiar to all members of the Committee, offered a violent resistance to the reception of convicts.

293. What took place in Van Diemen's Land?—In Van Diemen's Land many of the evils from which the inhabitants had suffered had greatly abated. The discipline, as I have said, had been improved, the unnatural crime at which they had been so justly shocked was certainly put down, and the number of convicts was no longer much in excess of the demand for labour. But by this time the colonists had conceived a rooted dislike to the system under which they had so much suffered, and a long controversy went on upon the advantages and effects of transportation; but the end was, that the party opposed to it prevailed. It is important to remark that the neighbouring colonies took up the cause of Van Diemen's Land; and New South Wales, although is was no longer directly receiving convicts, considered it almost equally objectionable that they should go into the neighbouring island of Van Diemen's Land. There was a great public agitation; it became the most important political question in Australia; a society was constituted, called the Australian League, denouncing this country for sending out its criminals, and the end was, that it became apparent that without a most formidable conflict with all the Australian colonies transportation must cease.

294. Sir *J. Pakington.*] Victoria was no less zealous, I think, in promoting that league?—Victoria was also prominent in promoting the league.

295. *Chairman.*] What was the result of the whole?—The result was this, that the Government of that day, by which time Lord Derby was Prime Minister, and Sir John Pakington was Secretary of State for the Colonies, must, I presume, have felt satisfied that it was impossible to carry on this system in the face of an almost unanimous opposition in the colonies; and there was also this other fact, which could hardly have failed to weigh with the Government, that as soon as the colonists were opposed to it, all the benefits of transportation ceased. One great advantage of the system was, that so long as the colonists would employ the convicts, so that they had a good chance of occupation, they cost the public no more money; but when once the colonists were resolved to have nothing to do with them, the Government would have had on its hands an indefinite number of able-bodied criminals in a pauper condition, to be supported by British money.

296. I believe it was announced at the end of 1852, was it not, by a despatch from the Secretary of State, that transportation to Van Diemen's Land would cease henceforth?—It was.

297. There was an Order in Council, I believe, to carry that out?—Yes.

298. When was that Order in Council issued?—The Order in Council was passed in January 1854.

299. Sir *J. Pakington.*] You have just stated that the Order in Council putting a final end to transportation, was not issued till January 1854. The

T. F. Elliot, Esq.

21 April 1856.

Secretary of State's despatch, announcing the intention of putting an end to transportation, was written and sent in December 1852?—Yes.

300. I presume that the delay which took place between the writing of the despatch and the issuing of the Order in Council, arose from the necessity of bringing the change into gradual operation, and awaiting the legislation which took place in the Session of 1853?—I think that the revocation of the original order was omitted merely because it was a permissive order, and no particular importance was attached to revoking it.

301. Considering the fact that the Act of Parliament which substituted penal servitude for transportation did not receive the Royal Assent till August 1853, supposing that the Order in Council, putting an end to transportation, had been issued in January 1853, would not great inconvenience have arisen during the intervening time in disposing of convicts?—That might have occurred.

302. Is it not a fact, that notwithstanding the announced intention of the Government to put a stop to transportation, it was necessary to send transports abroad during the year 1853?—None to Van Diemen's Land.

303. Were none at all sent to Van Diemen's Land?—None.

304. Not during the year 1853?—No. That despatch very prudently would not make a positive pledge that transportation should instantly cease, but the Government was, in fact, able to dispense with transporting any more.

305. Lord *Naas*.] Then for all practical purposes, transportation to Van Diemen's Land ceased upon the writing of Sir John Pakington's despatch?—It did.

306. Sir *J. Pakington*.] Then I presume that those transports which it was found necessary to send abroad during the year 1853, were sent to Western Australia?—They were.

307. *Chairman*.] That question introduces the subject of Western Australia; Western Australia, as I understand you, became, after December 1852, practically the only settlement open for transported offenders?—That is the case.

308. Can you give the Committee any information with regard to Western Australia; was it in a flourishing state at that time, at the end of 1852?—No, it was not. About the year 1850 the population of Western Australia, impressed probably with the stagnant condition in which they found themselves, compared with other Australian colonies, had applied to the Government to send them convicts; this colony alone of all the British colonies was desirous to have convicts.

309. What sort of climate has it?—The climate of Western Australia is exceedingly good.

310. What is the soil?—The soil is not so good, especially in situations near the sea, and there is, unfortunately, a great want of good harbours. These facts combined with an exceedingly injudicious plan on which the colony was originally settled, had caused it very much to languish, and hence, doubtless, the readiness of the inhabitants to receive a supply of convict labour, and perhaps also, to enjoy the indirect advantages of a very large Government expenditure.

311. Can you state what was the number of European inhabitants in the colony of Western Australia in 1850?—It contained less than 6,000 European inhabitants, including men, women, and children.

312. That was about 20 years after the formation of the original settlement, was it not?—Yes.

313. Was it in 1849 and 1850 that Western Australia applied to the Government of this country to send convicts to that colony?—It was.

314. What was the kind of representation which came; was it pretty unanimous?—Yes; there were no dissentients who made their sentiments known; it was the unanimous desire of those who took an interest in public affairs.

315. Both from resident colonists and persons connected with them in this country?—From both.

316. Was the wish thus expressed assented to on the part of the Government?—The wish was assented to; a small party of convicts was dispatched immediately.

317. What was the date of the first dispatch of convicts?—The end of the year 1850. To prevent mistakes, it may be well just to explain that a very few juvenile offenders had been sent to Western Australia in previous years; but as this was not transportation of adult males, and is not connected with the question more immediately under inquiry, I do not now refer to them.

318. Can

318. Can you give the Committee a statement of the numbers sent year by year since 1850?—The number sent in the year 1850, was 384.

319. Is that from Great Britain?—Yes.

320. Were any sent from Ireland?—None; in 1851, 878 were sent from Great Britain.

321. Were any sent from Ireland in that year?—None from Ireland; in 1852, 442 were sent from Great Britain.

322. These are all to Western Australia?—Yes.

323. Were any sent from Ireland?—None, in that year.

324. What was the number for 1853?—In 1853, 600 were sent from Great Britain; from Ireland 592; the total being 1,192.

325. In the year 1854, how many were sent?—In 1854, from Great Britain, 280.

326. Were any sent from Ireland?—None from Ireland; in 1855, there were 485 from Great Britain.

327. Any from Ireland?—No.

328. Have any gone this year?—This year there is a small party of 250 who have gone.

329. From Great Britain?—From Great Britain.

330. What is the aggregate number from Great Britain since the year 1850, who have gone to Western Australia?—The whole number that have gone is 3,319.

331. What is the total sent from Ireland?—Five hundred and ninety-two.

332. And what is the gross total?—Three thousand nine hundred and eleven.

333. That represents the number since the first sending of convicts in 1850 down to the present year?—It does.

334. And including some in January of the present year?—Yes, including 250 sent this year.

335. Do you know the present population of Western Australia?—We have no accurate return, but I am sorry to say we know that the free population has not increased by any immigration, except that sent in by means of Government funds.

336. Sir *J. Pakington.*] When you speak of Government funds, what fund do you refer to?—Funds voted by Parliament for sending free people to any colonies which will receive convicts.

337. You do not refer to any arrangement under the Australian land system?—No.

338. *Chairman.*] With these convicts, have there been sent out a considerable number of the military pensioners to serve as guards on the voyage, and as the means of protection in the colony?—Yes, a considerable number.

339. What number?—The pensioners and their families jointly, have amounted to 1,476 people.

340. Has a company of sappers and miners also been sent, both as a military guard and as superintendents and instructors upon the public works?—That is the fact; but some of those sappers will perhaps return to this country.

341. How many were they?—A company of 100 were sent out; the married men are to remain, the single men will be brought home.

342. In what manner were the convicts received at first in Western Australia?—Their arrival was very welcome, and up to the present time, the only complaint I have heard of is, that we do not send convicts fast enough. But this representation requires to be a little scrutinised; we have found that the colonial settlers are not able to employ convicts as fast as we set them free; we have had many convicts who were entitled to their freedom, but to whom we were obliged to give employment, because otherwise they would have starved. Again, the Government promised to send free labourers to any colony which would receive convicts. To colonies, such as New South Wales and Van Diemen's Land, that would have been a great boon, because they were in great want of labour, and these free people would have been readily employed. In Western Australia, on the contrary, several of the free people, healthy and of good character, long remained chargeable to the public; the consequence is, that the Government has been obliged for a time somewhat to slacken the speed of the free emigration; we could not take people of good character and strong bodily health from this country, and send them to the antipodes that they might become paupers.

343. Generally speaking, what has been the conduct of the convicts sent to Western Australia?—Their conduct has in the main been unexceptionable.

344. What has been the nature of the employment generally which has been

T. F. Elliot, Esq.

21 April 1856.

assigned to them?—The first object was to build a proper prison for their own accommodation; they have also been employed in constructing new landing-places; some of them have been used in making roads. The wish of the Government is, that eventually they should be as much as possible employed on public works which will conduce to the prosperity of the colony, but at the outset of course they had to attend to their own accommodation.

345. Are a considerable number of them in private service?—Yes, a considerable number are now in private service; but still it is quite evident from the facts I have submitted to the Committee, that we might very easily overdo the number sent, so as to create a great embarrassment in Western Australia.

346. Have you any notion how many ticket-of-leave men are employed at service?—Upwards of 1,000 ticket-of-leave men are employed at service.

347. Have you any statement to show the increase of revenue and trade in the colony of Western Australia since convicts began to be received there?—Yes, I can supply such a statement. In the year before convicts were sent, namely, in 1849, the colonial revenue was 9,600*l.* In the year 1854 it was 33,600*l.* The imports in the first year, namely, 1849, were 28,500*l.*; in 1854, 128,200*l.* The exports in 1849 were 26,100*l.*; in 1854 they were 34,100*l.*

348. Sir *J. Pakington.*] What were those exports?—Timber, some wool and some lead, fish and oil, and probably some horses. But what will doubtless not have escaped the attention of the Committee is this, that the exports are the true measure of the improvement in the colony, and that the increase in the exports has been very small; the increase in the imports may very likely be attributable to a great extent to the large imports wanted for the use of the establishments for the convicts. I am afraid that the increase in revenue and in imports is rather a fallacious test of prosperity.

349. *Chairman.*] With regard to those two years, 1849 and 1854, have you the means of stating the population in each of those years?—I do not think I have. I will endeavour to ascertain whether we have returns. The material fact, which we know indirectly, is that there has been hardly any influx of free settlers except those sent in by aid from public funds.

350. Are you able to explain that in any way?—Yes, I think it is not difficult to account for it. When the inhabitants applied for convicts to be sent to Western Australia, it might not unreasonably have been hoped that by an abundant supply of cheap labour, and also the advantage of a great demand for produce, the colony would have become attractive, and that settlers of capital would have entered; in short, it might have been hoped that something would have happened resembling more or less what did take place in former years in New South Wales and Van Diemen's Land; but scarcely had the Government given its consent to send convicts to Western Australia, when gold was discovered in New South Wales. The moment that this took place, no man of enterprise or capital who was going to Australia would think of proceeding to a languishing settlement on the Western Coast; he rather went to Eastern Australia, and consequently Western Australia has made but little progress.

351. Mr. *B. Denison.*] Can you tell us how they have paid for the excess of imports over exports?—I should be afraid that a great deal of British money has been spent in buying articles for the convicts. It has been necessary even to import food for the convicts.

352. *Chairman.*] You stated the whole number of convicts which had been sent into the colony, as 3,911 since the first sending?—Yes.

353. Have you a statement of the number of free persons who have been sent by public aid?—Yes. The number of free people, men, women, and children, sent by public aid, has been 2,310 private emigrants, and 1,476 pensioners and their families; making a total of 3,786.

354. Was there any intermission in the supply?—The dispatch of private emigrants was interrupted in consequence of hearing that so many of them had been unable to find employment.

355. Did a great many of them, in point of fact, become burdens upon the public there, being unable to support themselves?—They did for a certain time. In 1854, no less than 2,500*l.*, in round numbers, was expended in the support of emigrants who had become burthensome to the public.

356. Can you give the Committee a statement as to the cost of the establishment in Western Australia?—It has been very large. In the five years ending 1855 the amount of money voted by Parliament has been 322,525*l.* For this sum the country

country has got rid of 3,900 convicts. This is irrespective of the charge for transports, which, for taking that number of convicts, accompanied by their guards, can certainly not fall short of 80,000 *l.*

357. Sir *J. Pakington.*] That amounts to how much per annum on the average?—It is about 80,000 *l.* a year; the average per head is very large; it is upwards of 100 *l.* per man.

358. Mr. *Adderley.*] May we suppose that 400,000 *l.* covers all the expense incurred by this country?—It is a rough calculation.

359. Sir *J. Pakington.*] What do you include in the colonial portion of that expenditure?—The expenditure I have now mentioned has been wholly British money, voted by Parliament.

360. What is included in the portion of that money which is expended in the colony; what items of expense?—First, the salaries of the officers, the cost of the buildings which are to accommodate the convicts, the cost of forming roads, especially those leading to the new convict public works; and also, an important item, the sum which it is necessary to spend in finding employment for ticket-of-leave men, who in so small a colony cannot find private masters.

361. Is the governor's salary included?—No; the governor's salary is voted separately by Parliament, amongst a long list of colonial governors in the Colonial Estimates.

362. *Chairman.*] Can you give the Committee any information with regard to the difficulty now experienced in obtaining a sufficient supply of convicts of the kind wanted for this colony, and intended for transportation?—At first sight it appears remarkable, that when we have all been so anxious to find an outlet for convicts, we have the inhabitants of Western Australia lamenting that they do not receive more convicts, and yet that the departments in this country are unable to find more to send. The explanation is, first, that the number sentenced is so much reduced, and next, that you can only send one description of convicts so great a distance. You ought to send a man who has a certain period of his term still to serve; otherwise it is not worth while to go to so great an expense; and he ought to be in good health, and capable of some special employment. Now, when all these conditions are put together, it has turned out to be difficult to find a sufficient supply for the wants of the colony.

363. Mr. *B. Denison.*] You mean a sufficient supply of such men as would be acceptable to them?—As would be acceptable to them, or as it would be any advantage to this country to send; because, if you send a convict who is sickly, or if you send a convict who turns out a lunatic, which often happens, the colony justly says that Great Britain is bound to take care of him, and to pay for his maintenance.

364. Mr. *Adderley.*] Or a pauper either?—Or a pauper either. The rule followed with respect to paupers has been, that if a convict at the time of arriving in the colony was, either from his state of mind or body, unfit to earn his own livelihood, or if he was so unfit at the time of being discharged, then Great Britain ought to bear the expense of his maintenance; but if he has once become at large in the colony, and has been earning his own livelihood, and eventually becomes a pauper, the colony pays for his subsistence.

365. *Chairman.*] Do you know what the number of persons sentenced to transportation in the year 1854 was for the whole of the United Kingdom?—One less than 400.

366. Out of that number, could you by any possibility obtain the number of fit convicts for the purposes of Western Australia?—It is quite obvious that it is impossible, and the other explanations which I offered before refer to the large accumulated number which we have of convicts formerly sentenced to transportation.

367. Is there any further information which you have to give with regard to Western Australia which you think will be useful to this Committee?—I think that the questions of the Committee have elicited all the main points of interest connected with that colony.

368. Is there a place called Moreton Bay, with regard to which some suggestion has been made that it might be used as a settlement for convicts?—Yes; Moreton Bay is a northern district of New South Wales, and after transportation to New South Wales had ceased at the wish of the people, a large portion of the inhabitants of Moreton Bay regretted the decision, and asked that convicts might be sent to their part of the country. It would be legally impossible to do this, so long as Moreton Bay forms part of the Government of New South Wales, because

T. F. Elliot, Esq.

21 April 1856.

the order allowing transportation to that colony has been revoked. The next question agitated was whether Moreton Bay should be separated from New South Wales, in order to admit of its receiving convicts. This allows of a good deal of difference of opinion.

369. Have you turned your attention to the subject of the expediency of forming a new penal settlement?—Yes, I have thought a good deal upon that subject.

370. Are you aware that Mr. Waddington expressed an opinion upon that subject on Thursday last?—I was not aware that Mr. Waddington had expressed an opinion upon it.

371. Can you give the Committee any information or suggestions with regard to that question?—I have arrived at a conclusion, which I am afraid can hardly be palatable at first in England; but I am clearly of opinion that it is impossible to form a good new penal settlement. The evidence which I have just submitted to the Committee about Western Australia, may probably have produced the impression that even there, with all the advantages of 20 years' previous settlement, and of having a free population, although a small one, our experiment has been anything but successful; the establishment has been enormously costly in proportion to the relief which this country has enjoyed. But all these difficulties would be far greater in an entirely new country. In the first place, I am at a loss, as a question of geography, to think of any unoccupied territory that is well fitted for the reception of European convicts. In the next place there is this difficulty, that if there be any large free population, we have now learned by experience that they will not consent to receive our criminals for us; if there be none, it seems to me that we should be having a repetition of Norfolk Island on a large scale. When I hear it suggested that we should send our convicts to the Gulf of Carpentaria, I cannot but remember that at the end of five or six years you would have 20,000 or 30,000 English male criminals there, men becoming free by lapse of time, and men whom, even if physically possible, you could not lawfully force to stop there; they would have a right to possess their own schooners, and they would have passing almost in sight of them a trade of immense value, which goes through Torres Straits. It seems to me that we should be creating a nest of pirates. Moreover, if any one looks to the history of Norfolk Island and the frightful evils which occurred there, from having convicts and no one else, this also, I think, must rather alarm him. When the foundation of North Australia was contemplated, these difficulties were, of course, not wholly overlooked. One obvious difficulty is alluded to in the despatches, written at that time, namely, the want of women. The proposal was to cure that defect by giving them the indulgence of sending them all the female convicts of this country. Now, the female convicts of this country are very small in number compared with the male; but there is no one who has been at all conversant with the history of convicts in Australia but must be quite well aware that the influence of female convicts is wholly valueless upon male convicts; women of depraved character do them no good whatsoever; nor is it surprising. I have happened to watch the formation of a good many new colonies; I do not know that any one yet has been formed for much less than half a million sterling; I am afraid that we should find it prodigiously expensive to found this proposed new penal settlement in any part of Australia. I must likewise not forget to mention, that after all, the gold fields are not so very far off, and that when these men cease to be in bondage, such of them as might not take to fearful malpractices in the Eastern Archipelago and off the Northern coast of New Holland, would undoubtedly find their way from North Australia to the neighbouring gold fields. For these reasons, with great regret I do not believe that a new penal settlement would extricate us from our difficulty.

372. You have mentioned two places in the course of your evidence, Bermuda and Gibraltar; they, I believe, are not places of transportation properly so called, but rather places for placing convicts at hard labour; is not that so?—They are.

373. Like our English convict prisons and public works?—Quite so.

374. About what is the number of prisoners at Bermuda?—The number at present is about 1,200.

375. And at Gibraltar?—The average number is about 800; great endeavours have been made within the last year or two to improve the discipline at Bermuda and Gibraltar, and to assimilate the establishments there to the improved prison establishments at home.

376. Have you any information which you can give the Committee with respect to Gibraltar and Bermuda, which you think might be useful with reference to the subject

subject of their inquiry?—It may be worth while just to mention that the prisoners there are under exactly the same conditions as if they were at Portland or at Dartmoor in this country; they have to undergo their period of service on public works, at either of those two colonies, instead of at one of the home prisons. When the time comes for releasing them, it is necessary to send them to England to be released in like manner as if they had passed their sentence at home.

377. Sir *J. Pakington.*] You have alluded in your evidence to the demand which has been made from Western Australia for a larger number of convicts; it was stated by Mr. Waddington in his examination, that that demand was to the extent that they wished to be supplied with 600 or 700 convicts a year, instead of the number which we have supplied in the last three years, which has been from 300 to 400; are you aware of that fact?—I am aware that they wish at present an additional supply.

378. Can you tell the Committee when it was that that demand from Western Australia for an increased number of convicts arrived?—It has hardly been a demand, strictly speaking, for any specific annual increase; they wished us to send them a tolerably large number of convicts every year; they found by experience that the number was smaller than probably they had anticipated, and hence the authorities, especially, have asked for more; they have not nearly convicts enough at present for the public works which they want to execute. For example, the convicts cannot yet finish the building of their own prison.

379. How do you reconcile that statement with the evidence which you have given us, as to the great difficulty of finding employment for those who are sent to Western Australia?—By this distinction, that the scarcity is of men in the capacity of prisoners, who are to work for the Government within the prison walls; there is not a scarcity of men in the condition of ticket-of-leave men.

380. Then the difficulty arises, if I understand you rightly, from the preference entertained by the colonists for the employment of convict labour, rather than for the employment of free labour?—I think that the demand for more convicts has come chiefly from the executive officers, who want more hands for their prison, and partly from the colonists who may be alarmed at seeing the supply diminish, lest (if I may say it without offence) the Government expenditure should shortly diminish, and the system gradually die out.

381. Then, if I understand you rightly, you divide the labour of Western Australia into two classes, Government labour carried on by convicts; and with regard to that kind of labour there is a scarcity?—Yes.

382. And free labour carried on by emigrants, and with regard to that sort of labour there is a glut; is that a correct interpretation of your statement?—It is; including ticket-of-leave men with emigrants.

383. Mr. Waddington was asked this question, and he gave the following answer: "Do you know whether any statement has been made in this communication from Western Australia, as to the extent to which that demand is likely to be a permanent one?" that is to say, a demand for 600 or 700 convicts a year. The answer is, "I had a conversation with Mr. Labouchere upon the subject, from which I certainly gathered from him that he considered that it would be so." Are you prepared to confirm that opinion so conveyed to this Committee by Mr. Waddington?—I cannot at this moment call to mind any report precisely to that effect. There is, however, vacant room for about 700.

384. Is it your opinion or not, that the demand for an increased number of convicts to be sent to Western Australia is likely to be a permanent demand?—The answer to that question must entirely depend on the future prosperity of Western Australia. If there had not been the unfortunate discovery, for our present purpose, of gold, I should have felt sanguine that there would have been a great influx of free settlers, and that we might more and more have increased the number of convicts which the colony would absorb; but inasmuch as for the last five years we have not seen the least symptom of a spontaneous increase by immigration in the free population, I do not think that there could be any large permanent demand for convicts in Western Australia.

385. At the same time I understand you not at all to doubt the statement that at the present time, at all events, Western Australia would gladly receive a considerably greater number of convicts than we now send there?—That I fully believe.

386. Are you aware whether any demand of a similar nature has lately been expressed from any other of the British colonies?—None that I know of, except from Moreton Bay, on which some evidence has already been given.

T. F. Elliot, Esq.

21 April 1856.

387. You stated in your evidence, speaking of Western Australia in 1852, that that colony alone was desirous to receive more convicts; are you aware, referring to the statement which you subsequently made, with regard to the anxiety of Moreton Bay for convicts, that that anxiety was expressed to the Colonial Office in 1852, the same year?—I am aware of it; but I looked upon Moreton Bay as a thinly peopled district of a colony, which as a whole protested vehemently against receiving convicts.

388. Are you aware, that not only, as you stated, was the question of the separation of Moreton Bay agitated, but that deputations came over to this country to pray for the separation of Moreton Bay from New South Wales, in order and with regard to that special object, that there might be no legal impediment to sending convicts to Moreton Bay?—I am aware of that fact. I know that there was one party, and very likely a majority in Moreton Bay, which would have been glad to receive convicts, but there was another party, even in Moreton Bay, which was averse to their introduction.

389. You have stated to this Committee, with perfect accuracy, the strong feeling which arose in Van Diemen's Land, with regard to the reception of convicts, which led to the discontinuance of that system; are you aware whether or not any change has taken place in the sentiments of the colonists of Van Diemen's Land upon this question?—I have seen no official report of any such change.

390. Have you heard in any way of any such change?—No, I have not.

391. You are not aware that they have begun to find a want of labour, in consequence of the discontinuance of the convict system?—No, I have not that knowledge.

392. You have spoken of North Australia as one of the places thought of for a new penal settlement: can you inform the Committee what was the nature of Mr. Gladstone's intentions, and to what extent his arrangements had gone in 1846?—Mr. Gladstone had organised his plan very fully, and it is set forth in a despatch which has been printed for Parliament. It is extant in a Parliamentary Paper on Convict Discipline, printed in February 1847.

393. If his plan, so described, had been carried out, it would, I imagine, have amounted to the establishment of exactly that description of colony which you have stated, in your opinion, is now an impossibility?—The colony which I described as seeming to me almost an impossibility, would have been one upon the Gulf of Carpentaria; but I also think that a colony upon the proposed site of North Australia would have been quite as objectionable.

394. What was the exact site of the proposed colony?—It was to be to the north of the 26th parallel of latitude, the 26th parallel of latitude being the northern limit of Moreton Bay, and close to districts which are now occupied by free people.

395. And still upon the eastern face of Australia?—Yes.

396. Lord *Naas*.] What is the climate there?—The climate is temperate. It is needless to say that it is close to the tropic; but there is a high table land, which renders it temperate in reference to its situation by latitude.

397. Sir *J. Pakington*.] Mr. Gladstone did not entertain the idea of establishing a colony in the Gulf of Carpentaria?—No.

398. Supposing a colony to be established in the Gulf of Carpentaria, do you think that that colony would be free from the danger to which you have alluded of being too near to the gold fields?—No, I do not think it would be free from that danger. The convicts, in the lapse of time, must become by law free, when you could not forbid the resort of free vessels to your coasts; you could not prohibit the ownership of vessels by the very men themselves who had been convicts. They might employ those schooners to go to the gold diggings, or they might, with less trouble, use them to pay a visit to the ships which were bringing gold to Europe.

399. Do you think that the difficulty, whatever it may be, with regard to the gold fields, would apply more to a colony in the Gulf of Carpentaria than it does at this moment apply to the colony of Western Australia?—It would apply more strongly to the Gulf of Carpentaria on account of the geographical position, on which I have so strongly dwelt.

400. It would be nearer?—Much nearer.

401. Do you think that any serious objection would exist to the establishment of a penal colony in the Gulf of Carpentaria on the ground of climate?—Our data are as yet so small that I should not feel it safe to hazard any confident opinion upon that subject.

402. Would

402. Would not the climate of the Gulf of Carpentaria, making allowance for that difference which exists in the southern hemisphere, be still in fact a tropical climate?—Undoubtedly.

403. You expressed a strong opinion, as I understood you, of the impossibilty of founding a new penal colony at all?—I did.

404. Why in your opinion would it be now more difficult to found a new penal colony (of course assuming that a fit place is discovered) than it formerly was to found the two colonies of New South Wales and Van Diemen's Land?—My answer to that is, that the experience of New South Wales and Van Diemen's Land confirms me in my belief of the obstacles to a similar experiment now. For several years the number of convicts sent to New South Wales was very small indeed. The relief that would have been afforded to this country by that number would have been insignificant. What led to the great success of those colonies was the discovery of the value of the great export of wool. When that was discovered, free settlers poured in, capital accumulated, convicts found ready employment, and the whole experiment was most successful. I believe that in a condition such as that, when you have a large free population willing to employ convicts, transportation is the best secondary punishment which it is possible to conceive. I am no enemy to transportation; I lament its loss.

405. If I understand you rightly, you draw the distinction that it would be essential in founding a new penal colony, that there should be in that colony the elements of some commercial advantages in connexion with this country?—I think that to reap the advantages of transportation as a secondary punishment, you must have a large free population willing to receive and employ the convicts.

406. Was that the case in either of the instances which I have named?—It was not the case in the early years, and in those early years transportation was so small that it would have been of no value to you.

407. Is it not a fact that both those splendid and thriving colonies of the British Crown date their origin from the system of transportation?—They date their origin from that time, but they date their prosperity from the discovery of the value of wool as an export, and the consequent readiness of a large thriving free population to employ the convicts.

408. You have stated that no colony with free inhabitants will receive our criminals. How do you reconcile that with the facts adverted to to-day connected with both Western Australia and Moreton Bay?—I ventured in passing so far to correct my answer as to say, no colony with a *large* free population. I quite acknowledge that when, at the end of 20 years, the population of Western Australia only amounted, men, women and children, to 6,000, while they saw on the other side of Australia the great success and prosperity of their neighbours, they might be inclined to try the experiment of receiving convict labourers, and of enjoying the benefit of a great British expenditure.

409. They not only might be inclined, but they were?—Yes.

410. And that applies to both the colonies to which I have adverted?—That applies to Western Australia and to a part of New South Wales.

411. You mentioned Norfolk Island as an illustration of the impossibility of founding a new colony entirely of convicts; do not you think that the insular character of Norfolk Island, the extraordinarily small area of Norfolk Island, and the absence of anything like extensive public works, form peculiarities which would not apply with equal force, if at all, to a new penal colony founded elsewhere?—They were peculiarities, but I had in my mind points of similarity on which I only did not enlarge, because I was afraid of abusing the patience of the Committee. The insular position of course is a peculiarity, but what would be common to both is, that there would be an exclusively convict population, with the single exception of officers removed from all superintendence by high functionaries moving in a free country, and from all influence of public opinion. That would be common to the two. What excites my fear is, the idea of 20,000 or 30,000 grown-up male criminals, without women, without a free community, and without even any resident public officers, excepting those answerable for their custody.

412. Do you apprehend, that in the event of its being thought advisable to found a new penal colony, it would be impossible to find means of compensating those disadvantages?—I think that the only means would be by discovering some such unoccupied territory, that there would be a strong probability that free people would soon flow in, as they did flow into New South Wales, and then you might repeat the whole history again.

T. F. Elliot, Esq.

21 April 1856.

413. Do you think that no such place is to be found within the British dominions?—I think not now, because I believe that the discovery of gold has been fatal to our making use of colonies, for the present at all events, as a means of secondary punishment; I think that enterprising persons inclined to proceed to a distance, would go to the gold provinces; others, especially from political considerations, would perhaps go to the British American colonies; I cannot think that any persons of skill, and possessed of capital, would go to an entirely new place chiefly tenanted by the sweepings of our prisons.

414. Is it not a fact, notwithstanding the attractions held out by those gold discoveries, that the majority of our free emigrants still go to the North American colonies and the United States?—Yes, but there are no convicts there, and they are not going to a newly formed colony. I think that as matter of experience, you may judge by the experiment which we made five years ago. We made a new convict colony in Western Australia; we did all we could think of to invite people to go; we offered them advantageous terms in the acquisition of land, but they would not come forward.

415. Have you ever considered the Falkland Islands as a probable site for a penal colony?—Yes, we have had the Falkland Islands suggested, and the Auckland Islands suggested, and the Chatham Islands proposed; I think that all those proposals mistake the difficulty with which we have to grapple. Those places would all do very well for retaining men while in bondage, but I really think that the nearest common in Surrey would be a better place still. I think that so long as a man is locked up in prison, you can keep him as well at home, and you can more easily get good officers, who are also under the influence of public opinion, if anything is done amiss. The difficulty is to provide for the convicts when they become free men in a large community; for that purpose the Falkland Islands are wholly unsuited.

416. Have you ever entertained the idea of sending them either to Vancouver's Island, or the Labrador coast, or the Hudson's Bay territory?—I have heard that idea suggested. I suppose, in the case of Vancouver's Island, political considerations would come into play; I have not much knowledge on that subject.

417. Would not distance be a serious objection to Vancouver's Island?—It would.

418. What do you say to the other quarters?—I think that the territory of the Hudson's Bay Company is just as objectionable from being too cold, as are several others which have been thought of from being too hot; you can hardly create an English Siberia; and there is the further objection that this also would be very dear.

419. You are more conversant than most men are with this subject, and you therefore will allow me to ask you if these are your decided views as to the impossibility of founding a new penal colony, whether you have any definite plan in your own mind with regard to the future disposal of the worst class of convicts as they are convicted of crime in this country; what do you propose to do with them?—That is the question for this Committee, which we all hope to see them solve successfully.

420. It is a question which this Committee are seeking to solve by the aid of the evidence which they may receive from competent persons like yourself, and therefore I venture to ask whether you are prepared to offer any suggestions, or to express any opinion upon it?—The truth is (with respect and submission), that I have seen a great deal of what has taken place in the colonies on this matter, and that I have been anxious to submit, to the best of my power, all that I know to the Committee, but that the other is a great question of statesmanship, on which I feel bound to speak with diffidence and hesitation. I can assure the Committee that I have not omitted to think of it in my own mind, but I have no particular or official knowledge specially qualifying me to speak to the point. At the same time, as the question has been put, I will just say this much: we are the only civilised people in the world who have had the good fortune to have transportation at all. I think that while you had suitable colonies it was the best secondary punishment possible to be conceived, and I rejoice that we enjoyed its benefits so long; but if it is no longer possible to find English colonies abroad who will receive our criminals for us, I trust that as every other civilised country has had to do without transportation, England, in its wisdom, will in time find means of grappling with the difficulty. One thing is certain, we see already that two or three years ago a Secretary of State having written a despatch, and said that transportation must cease, the whole mind of England is awakened to this

question

question of secondary punishment in a manner that did not in the least exist before. We have all the intelligence of the country brought to bear upon it, and one may hope that the quantity of crime will be diminished, and its treatment improved. I do not suppose that there is one panacea; there must be all sorts of endeavours. They tell us that the use of pain is, that we may not allow anything to go on which would be injurious to our health or dangerous to our lives; and perhaps this great difficulty of not being able to send our criminals away will awaken us both to duties and to resources at home which we overlooked before.

421. Have you ever considered the suggestion of converting some of the Scotch islands, some of the Hebrides, into receptacles for convicts?—I have heard that suggestion, and I think it comes under the same class as those of the Falkland Islands and others I have mentioned; they would be very well for a penitentiary, but really Wandsworth Common is quite as good, and quite as unobjectionable.

422. Do you happen to know what proportion of the seven years' convicts sent abroad, as they latterly have been, ultimately came back to this country at the expiration of their sentences?—I have never heard that mentioned.

423. Have you any means in your office of ascertaining that?—No.

424. Then probably you cannot answer another question; namely, whether any considerable proportion of those convicts for shorter periods never came back at all?—My impression is, that the great majority of convicts, whether for long sentences or for short, remain in Australia.

425. Your impression is, that even with regard to the seven years' convicts, when the sentence of seven years' transportation was passed, practically in a great number of cases it was separation from this country, and from all the ties of kindred for life?—I think that owing to the great desire which we know that the men in prison have always felt to be removed to Australia, the presumption is, that they wished to remain there after they got out.

426. Are you able to state to this Committee an opinion whether or not that fact of a large proportion of our convicts, whether sentenced for long periods or short ones, remaining permanently in the colony, did throw around the sentence of transportation a degree of terror which cannot attach to limited periods of imprisonment in this island?—There is evidence of undoubted authority upon that point, which I feel it very difficult to reconcile. On the one hand, before the Committee of the House of Lords, which sat upon this question a few years ago, all the most experienced judges gave evidence that it was a cause of the utmost terror to a criminal and his friends to hear him sentenced to transportation. Of course, that evidence is beyond question; we must bow to it. On the other hand, I think the Committee will probably find that any one conversant with the feelings of the criminals, after they are in prison, will learn that they always look forward with great hope to being removed to Australia; and I have had within my own personal knowledge, which is very limited, since I only know of men in prison when they are at Bermuda and Gibraltar, many instances of well-conducted convicts, who complained and thought it was hard upon them, that on account of good conduct they were set free sooner and returned to England, instead of being kept on, so that in time they would be transported to Australia.

427. Prisoners under sentence of penal servitude, under the new law, are still sent to Bermuda and Gibraltar, are they not?—They are still sent to Bermuda and Gibraltar, and then return to England when it is time for them to be discharged.

428. Under the present law, a sentence of penal servitude may mean detention at Portland, or Dartmoor, or Bermuda, or Gibraltar?—It may.

429. Can you tell the Committee upon what principle, or whether upon any principle, the selections are made of those who shall go to Bermuda or Gibraltar, and those who shall stay in England?—Doubtless that information can be given with more precision by other witnesses concerned in the management of the prisons. We are constantly pressed, both from Bermuda and Gibraltar, to send as many skilled labourers as possible, and it has been found very difficult to furnish them in the required numbers.

430. Do you consider that there is any difference in the severity of carrying out a sentence according to whether a man is kept at Portland or sent out to Bermuda?—The climate is certainly less favourable to the constitution of an Englishman, both at Gibraltar and Bermuda, than at home.

431. We have been informed by Mr. Waddington that the number of prisoners who have been sentenced under the new law to transportation has been comparatively very small; only 300 or 400 a year; when you spoke just now of the difficulty

T. F. Elliot, Esq.

21 April 1836.

culty of finding fit men to go to Western Australia, did you mean that, out of that limited number sentenced within the last two years to transportation, a very considerable number were rejected as unfit for Western Australia?—I then had in my mind the whole number of convicts under sentence of transportation, whether accumulated from former years or recently sentenced.

432. You cannot tell me whether any considerable number of the recently sentenced transports were unfit to go out?—I cannot.

433. Mr. *M. Milnes.*] Do you happen to know what was the condition of life which we read of historically, when we read of men being sent to the plantations?—Many of them were sent out, I believe, bound to render service to certain contractors, which contractors could sublet their services to others, until they had earned their freedom; but my knowledge on the subject is very imperfect.

434. As far as you know, it was rather servile labour than what we should call peculiarly transportation?—Yes.

435. Is there any reason to believe that in our West Indian colonies, and in North America, any large portion of the white population originated in servile labour?—I do not remember the instances.

436. It appears to me that you wish to draw a distinction very clearly between servile labour as a punishment, and transportation?—Yes.

437. You wish to regard transportation not only as connected with the punishment of the criminal, but as connected with a certain state of society in which the criminal is placed, and of which he is to form part, after his sentence has expired?—Yes.

438. Your objections therefore to transportation would not be applicable to cases of mere imprisonment in distant countries?—No; the same objections would not apply to that.

439. First of all, with regard to transportation, do you believe that the disgust in our colonies at transportation, as distinguished from mere imprisonment, is now so entirely rooted that there is no hope, under any circumstances, of its disappearing?—I am convinced of that; it has taken firm root amongst them. It began as a natural feeling in society, a social feeling, and one amongst the parents of families, but it has since that become a political passion; it drives them to the idea of rebellion to think of convicts being sent.

440. Are we authorised to suppose that a political passion of that kind is likely to be permanent?—That is a question which, in its general form, will be better judged of by a politician than by myself.

441. But so far as you can judge from your own experience, you deem it to be so?—So far as I can judge from my own experience, political passions are much more lasting in the relation between a colony and the mother country than in the case of different parties within the same territory.

442. When you talk of this as a political passion, do you not think there has been a certain national pride in the matter connected with the particular relation between the colony and the mother country, which perhaps might disappear now that the independence of the colony is more fully recognised?—I think that there is a variety of causes which render it certain that on the eastern side of Australia the colonies will never again be willing to receive convicts. In the first place, there is now a very large working population; they look with jealousy upon the introduction of other labourers who are to bring down the price of industry. That, I think, is one strong motive which will always remain. Then there is the feeling of pride to which the question alludes; they view it as a stigma that they are to receive our criminals. Again, there is a strong jealousy of having anything put upon them by authority from the mother country. All those feelings combined satisfy me that we shall never again see convicts willingly received in Australia. But as I should always prefer resting on some strong fact rather than merely offering my opinion, there is this circumstance, which it is material to mention, that in the colony of Victoria, so strong is the abhorrence of convicts that they are continually passing Bills, which at home appear of the most oppressive character, to prevent convicts, whose sentences have even been remitted, from finding their way to the colony. They actually throw the *onus probandi* upon a man to prove that he ought to be free; if they suspect him of being a convict the *onus probandi* is thrown upon him, and unless he can at once prove his free character he is shipped off or imprisoned, and put to hard labour.

443. Does that state of feeling apply equally to Van Diemen's Land?—I think there is the same character of feeling also in Van Diemen's Land; and in Van Diemen's

Diemen's Land they have in fact suffered much more from convicts than ever did Victoria.

444. Where would be the difficulty of establishing other colonies in other parts of Australia, which would at least relieve us of some portion of our convict population, in the same way that the colony of Western Australia now does?—Upon that I have little to add to what I have submitted in former answers.

445. The objections which you have given would refer rather to the contingent difficulties than to any absolute impossibility of such an experiment?—I think that if England will both spend the money and incur the responsibility, it cannot be called impossible; that I admit; but I think that it is a very grave responsibility indeed.

446. Has not Ascension Island been used as a criminal settlement?—If there have been any prisoners there, I do not remember it; Ascension Island is usually occupied by the crew of a sloop of war.

447. Has it never been suggested that there should be a criminal settlement at Ascension Island?—I have never met with that particular suggestion. They have suggested islands to us all over the ocean; they have suggested the Island of Amsterdam, a small place which would hardly hold so many prisoners as Pentonville Gaol; but, as I said before, all such suggestions mistake the difficulty.

448. You were speaking about the difficulty of a tropical climate; was not a large portion of the labour of Dutch Guiana in the cultivation of that country performed by white men?—The mortality has been dreadful wherever it has been tried.

449. Do you see no advantage in transporting our criminals to a certain distance from this country, even if all we can obtain is their confinement there, till the time of the expiration of their punishment, and then bringing them back, rather than keeping them in prison here during that period?—I see no advantage, and I see many disadvantages; I think it is more costly, and less susceptible of efficient and good superintendence; I think that the establishments abroad for keeping convicts at hard labour, are only justifiable and expedient when you have some public works which it is material to execute by convict labour. Now that condition does strictly apply both to Bermuda and Gibraltar; I think therefore that the establishments at those two places are proper. At Bermuda it would be quite impossible to obtain free labour to execute works which are of national importance; at Gibraltar also it is very difficult to get good free labour; but I do not think that Great Britain gains much in the disposal of its criminals by the existence of those places.

450. Mr. *B. Denison.*] Does not that labour cost this nation very dear?—No, I think not. The officers make calculations, by which they endeavour to show that the prisoners cost nothing. They declare that the value of their labour, in the course of a year, is more than the cost of maintaining the establishments. I should look with a little doubt upon those calculations; but I do not think that they cost more than free labourers would.

451. At all events, all those prisoners come back to England?—They do.

452. And therefore, as regards England, it is the same thing as if they were at Pentonville during the time?—Yes; as regards the disposal of criminals, it is the same thing as if they were at home. As regards the execution of public works, it may be a convenience.

453. Your mind is clearly made up that there is an end to transportation, as regards the question of getting quit of the criminal?—I am afraid so.

454. Have you turned your attention at all to the manner in which criminals may be reasonably disposed of in England?—I have thought a great deal about it; but I do not feel that I should be warranted in intruding upon the Committee on that subject. I am no authority upon it at all.

455. Have you ever read the evidence which was given upon Mr. Pearson's Committee on Prison Discipline, some few years ago, where he proposed the plan of prisoners supporting themselves?—I remember hearing Mr. Pearson's views, and I knew Mr. Pearson, but I made no study of his proposals.

456. Is it not clear, that as you cannot transport these criminals, it is more than ever, in your opinion, the duty of the Government and of Parliament to try to provide some means of giving them employment which will qualify them for their return to society, as to society they must return, according to your view?—It appears to me that two or three things have now become more incumbent than

T. F. Elliot, Esq.

21 April 1856.

ever on Government and on society. First of all, it has become more especially our interest (as it was equally our duty before) to try to diminish the sources of crime; to try to render the whole number of criminals less. This is to be done by general good government, and perhaps by more education. In the next place, it seems to me that the instinct of the public has led it aright in supposing that you should, as far as possible, try to reform juvenile delinquents. They are the beginners. And in the third place, of course prison discipline must become more than ever material to us, when the prisoner by-and-by will be at large in our own country.

457. Have you turned your attention at all to the question of juvenile reformatory institutions?—I have heard and read about them with great interest; the working of them is admirable; the controverted point, as the Committee are well aware, is whether or not it will eventually lead parents to wish their children to commit small offences, in order to get them into one of those institutions.

458. That may be one of the evils, but if you reformed the child, he would be a better member of society?—Clearly.

459. So that it would not be all lost?—Certainly not.

460. Can you devise any better scheme, under existing circumstances, than the general establishment of reformatories for juvenile offenders with reference to the question that we have before us, as to the manner in which we are to deal with convicts?—They are extremely good as far as they go; but I think that you will require a great variety of concurrent measures, in order to do all the good that is possible.

461. Mr. *M. Milnes.*] Do you happen to recal to your mind any of the circumstances connected with the way in which colonists have been willing or unwilling to receive, I will not say young criminals, but young persons who have fallen under the laws?—There were small numbers of juvenile offenders sent to Western Australia at a date anterior to their asking for regular transportation. For a little while it seemed to answer pretty well, but they ended by asking to receive no more. Then some 20 or 30 years ago, there was a Philanthropic Society in England which sent out some children to the Cape; the experiment answered very ill; the boys complained of ill-usage; parents at home said that their children had been taken away unknown to them, and that experiment also fell to the ground.

462. At the very time of the great excitement on the subject of transportation at the Cape, did they not draw some distinction between juvenile offenders and other criminals, and express a willingness to receive juvenile offenders?—I am not aware of their having made the distinction. I cannot answer for the private opinions of the inhabitants of that country; but I do not remember any public proceeding in which they drew the distinction.

463. Would you extend your principle as to the utter impossibility of transportation so far as this, that you think there is no present colony to which we could hope even to promote the emigration of our juvenile offenders?—I think it might be going too far to give up all hope upon that subject; but this I would earnestly recommend, that if ever it be thought of to send juvenile offenders to any of these colonies, fair notice should be given beforehand, and a consent obtained, if possible, from authorities entitled to speak for the colony. I am confident that a contrary course would excite feelings of pride and distrust in the colonists, and would render the measure much more liable to defeat.

464. Mr. *Adderley.*] In giving us the history of transportation, you began very properly with New South Wales, and said that there was nothing before but very irregular transportation to North America. Do you recollect the circumstances when North American independence suddenly stopped that outlet for our convicts?—The event was just contemporaneous with the foundation of New South Wales.

465. New South Wales was commenced by that sudden stoppage, when something like 10,000 convicts were collected on the Thames in consequence, and London was frightened?—Yes.

466. I understand you to say, that you consider that the experience since, together with the altered circumstances of the world, render any repetition of such a resource impossible?—Any successful repetition is so highly improbable, that it may almost be called impossible.

467. The chief alterations in the circumstances of the world increasing the difficulty

difficulty are, that there are now fewer places unoccupied in the world, and that locomotion is so much increased?—Exactly so.

468. The increase of civilised governments and free constitutions all over the world, of course, increases the difficulty still more?—Certainly.

469. Do not you consider that our colonies, which now have free constitutions, are especially less likely to be inclined to receive convicts than they were before?—Certainly.

470. Besides the national pride which has been roused, which shows no symptoms of diminution?—That is the fact.

471. When you stated that there was at first an expression of annoyance from New South Wales at the Report of the Committee of 1837 against transportation, what was the class of men in New South Wales who expressed that annoyance?—To the best of my recollection the legislature itself; and there were public meetings on the subject.

472. What should you say was at the bottom of that feeling of annoyance at the Report against transportation?—I think that partly their love of their country may have been wounded by such a picture of its condition, and that partly they may have disliked losing the material advantages which they derived from the system of assigning the convicts.

473. Were not all those who so remonstrated large gainers by the Government expenditure in New South Wales upon the convict system?—They were gainers either by the Government expenditure or by having the cheap services of convicts.

474. Referring to your history of transportation, which may be divided into three periods, the assignment system, the probation system, and Lord Grey's system, in each of which transportation has a different meaning, are you of opinion that all those three kinds of transportation it would be equally impossible to revive?—I think so.

475. Whether in the qualified form as exiles, or as in the last period, when it was considered a treatment subsequent to punishment upon the completion of the penal treatment at home, still you consider that mode of qualified transportation equally impossible to be revived?—I think that it would be so, and I have quoted the example of the extraordinarily stringent measures passed in the colony of Victoria against the arrival of any men who had ever been convicts.

476. When you state that neighbouring colonies took up the opposition which was first made by certain Australian colonies, do you not conceive that colonies have not only an interest in stopping transportation to themselves, but only a slightly less interest in stopping transportation to neighbouring territories?—It is perfectly true that they are liable to receive the overflowing of liberated convicts from any adjacent convict settlement.

477. Will you state the distance of the chief town in Moreton Bay from the capital of New South Wales?—It is about 600 miles, I think, from the town of Sydney to the town of Brisbane, in Moreton Bay.

478. What is the nature of the country unoccupied, which lies between the two districts of New South Wales proper, and Moreton Bay?—The two are contiguous.

479. Is there much unoccupied country?—No; after the settled country in the northern parts of New South Wales proper, there is a succession of downs and pasture lands.

480. The passage, then, from one to the other, would be perfectly easy by land?—Quite easy.

481. And still more easy by sea?—Still more.

482. About what is the distance of the proposed site of North Australia from Sydney?—The boundary was not much further off than the town in Moreton Bay which has just been mentioned.

483. New South Wales, therefore, may be considered justified in expressing an interest in North Australia not being made a convict settlement?—Undoubtedly; it is impossible that North Australia should be made such a settlement without a very early influx of liberated convicts into New South Wales.

484. Do you consider that if England took the step of separating Moreton Bay from New South Wales for the purpose of a convict settlement, there would be very violent resistance in New South Wales to such a proposal?—I should anticipate very strong opposition. But I ought to add that the separation of

T. F. Elliot, Esq.

21 April 1856.

Moreton Bay has been advocated on other grounds and for other purposes, and upon this I offer no opinion.

485. You stated that in proposing the formation of a new colony for the purpose, the cost alone would be sufficient to deter us?—I did.

486. Do you not consider that even where the cost is less, as we may suppose from some recent experience it may become, those colonies which are less expensive in formation would be still less likely to consent to being made convict settlements, the self-supporting nature of a colony being rather in proportion to the superior class of people forming it? I would take the instance of Canterbury Colony, which I suppose has cost less than any other colony in foundation; do you not suppose that the very fact of the cost having fallen upon private enterprise would render the colony less likely to consent to being made a convict settlement?—It certainly would not render it more likely. I have no doubt that they would be quite as opposed as all the other Australian colonies have been to this system.

487. You have alluded to two attempts made to send juvenile offenders to various colonies; do you consider that that might be made, especially with the altered institutions of England with reference to juvenile offenders, a more possible and feasible plan than with adults?—I think that an indispensable preliminary would be fairly and openly to ask the colonies beforehand whether they would object.

488. Have you any reason to suppose that certain colonies would entertain such a proposal more favourably?—I am not aware of any reason recorded in public documents or proceedings.

489. With regard to the military pensioners in Western Australia to whom you have alluded, have any of them come home?—I have not heard of any.

490. In talking of the difference between the capacity of Western Australia to receive our convicts, and the numbers which we have sent out since the Act of 1853, would the number of transports which the terms of that Act would permit to be sent out, meet the full demand of Western Australia?—The whole number in 1854 was not quite 400, and would fall much short of the demand of Western Australia.

491. Therefore if it was desirable to meet the full demand of Western Australia the terms of that Act must be relaxed?—Yes.

492. *Chairman.*] So as to give the power of transporting for 10 years, or something of that kind?—Yes.

493. Mr. *Adderley.*] Even before the attraction of the gold drew off settlers from Western Australia, I believe that settlement never throve?—No, it did not.

494. Can you state what was the class of men of whom the first settlers consisted?—They were settlers in a very favourable position in life; many of them received enormously large grants of land upon condition that they should cultivate them, but the land was given in such profusion that nobody would labour. Every one sought to turn landowner on his own account, and nobody would work.

495. Then you consider that the first plan of that colony was faulty?—Decidedly faulty.

496. Are you aware that in the last blue book which has just come out, Sir Henry Young states, that in Van Diemen's Land, even though the convict system has ceased, yet it has produced so large a class of paupers and criminals that he considers this country bound for a long time to defray a considerable portion of their expenditure?—I am aware that there is such a despatch from the Governor.

497. With regard to the difficulty in forming any new penal settlement arising from the immense disproportion of men to women, have you any proposition to make by which that difficulty could be met?—No, I cannot see how the difficulty can be met. Convict women, as I have already explained, would not, I think, answer any good purpose. You could not seek to obtain free women of good character in order to pour them into a society composed exclusively of male offenders.

498. Have you ever considered the plan of sending the wives of married convicts out with them?—The Government have already sent out the wives of married convicts with a liberal hand. The moment that the Governor of a colony reports that a convict is able and willing to maintain his wife and family, the Government endeavour to send them out. But the difficulty is this, that some of these women themselves belong to depraved classes in society. Even their abode cannot be discovered. Some of them again have taken another husband, and are not willing to go out. The result is that, inasmuch as it is only a portion of male convicts who

who are married at all, and then there is a large proportion of their wives who are either not to be found or are not willing to go out, we get but a small contribution of free women from this source.

499. Can you state to the Committee what steps are being taken in search of a new convict settlement; what Captain Denham may be now doing?—I am aware that there is an exploring expedition to go to the northern shores of New Holland, but I have no reason whatever to believe that it is with the view of finding a site for a convict settlement.

500. In answer to questions as to substitutions for transportation, you said that every other civilized country had grappled with the difficulty; have you at all studied the modes in which they have met the difficulty?—Yes; I took some pains to gather reports from several countries in Europe. There was an excellent collection of Reports upon the prison institutions of most countries in Europe, made by Commissioners of Enquiry sent out by the French Government. Those Reports have now become of rather old date, but they might be worth referring to.

501. What was the date of them?—I looked at them four or five years ago; whether they were quite recent I do not know, but they were very instructive and interesting.

502. Lord *Naas.*] Where are they to be found?—I obtained them through the courtesy of the Foreign Office, which had a copy.

503. Mr. *Adderley.*] Have you any information as to the mode in which Prussia deals with the subject?—I have some general information. There is one curious fact which I have happened to see referred to in a work of, I think, a member of this Committee, which is, that it was a rule in Prussia to send a criminal to that province of the country which was the furthest removed from his usual haunts. This shows how a continental power was led by the force of circumstances to make the nearest approach to transportation of which its geography would admit.

504. Have you ever turned it over in your mind whether that gives any hint to a possible imitation in England of the system of what may be called internal transportation?—England is so small a country, and the means of locomotion are so easy, that it would be difficult to apply the system here.

505. Lord *Naas.*] You stated, that in 1853 there were 592 convicts sent to Western Australia from Ireland?—Yes.

506. I find that that is the only year in which any were sent from Ireland?—Yes.

507. Has transportation to Western Australia from Ireland then practically ceased?—I believe that the reason why so few convicts have hitherto been sent from Ireland to Western Australia is this: At the outset it was necessary that they should construct their buildings and execute other works, and therefore important to obtain men of a certain skill in labour. The prisons in Ireland, unfortunately, I believe, (I have no great knowledge of them) in former days were not very well organised, and the prisoners had not the same advantage of training that they had in England. I have been told that this is now being remedied in Ireland; but in the meantime, when it was necessary to seek for men who had undergone a previous course of training to labour, the English prisoners were resorted to in preference.

508. Do you know whether the colony objected to that batch of Irish convicts as being inferior to the class sent from England?—They did.

509. Therefore a difficulty exists, and is likely to exist, in extending to the Irish convict the same amount of transportation as you apply to the English?—The difficulty will exist until the Irish prisons are so organised that their inmates will be equally fit for useful labour.

510. You said that you did not see any difference between the establishment of a convict settlement upon one of the islands on the western coast, either of Ireland or of Scotland, and a convict establishment at Wandsworth, or close to London; do you not think that in such a place as Clare Island, on the western coast of Ireland, or in one of the Hebrides, a greater amount of liberty might be given to convicts who showed a disposition to reform, than could be given within the four walls of any establishment on the main land?—They might have greater liberty, but I do not see that they would be better able to provide for their own subsistence. The reason why I think this is, that we all know the immense distress which has been experienced by the free inhabitants of the Hebrides; if they could not live there, I do not believe that prisoners could do so by their own exertions.

T. F. Elliot, Esq.

21 April 1856.

511. Do you not think, that under proper instruction and conduct, the better class of convicts might be trusted in such an island as that to cultivate the land, and to be employed as agricultural labourers?—I still recur to the objection, that free men, living under free proprietors, could not exercise any industry which was remunerative in those islands.

512. You surely do not mean to say that those islands, properly cultivated, are not capable of supporting a very large population?—They were incapable of supporting the population which they held.

513. Because that population, from the force of circumstances, depended upon a certain sort of food, which food was removed by the visitation of the Almighty, and, in fact, ceased to exist. You are aware that until the potato disease occurred, there was never any difficulty in obtaining food for the population in the Western Islands of Ireland, and on the Western coast of Scotland?—The Committee must be aware of the extreme destitution in the Western Highlands and Islands, long before the potato disease was known.

514. Do you not believe that it would be a great improvement of our present system of punishment if you could hold out to the convict a greater incentive to reform?—Certainly.

515. Do you think that that could be done in any better way than by giving a hope, even to those who are sentenced to long terms of transportation, of a greater extension of liberty?—That would be the best plan.

516. That could not be done in this country, except by the ticket-of-leave system, and returning them upon society?—That is the fact.

517. Therefore if agricultural labour was compatible with restricted liberty, it might be held out as an inducement to reformation?—Yes.

518. With regard to the military pensioners, have you any reports of the position and conduct of the military pensioners who have been sent to Western Australia. You stated, I think, that 1,476 military pensioners and their families had been sent by the Government to Western Australia?—Yes.

519. Can you give the Committee any information as to what position those people are in now, whether they are well to do in the world, and whether they are making good settlers?—To the best of my belief they are doing well.

520. Have they become employers of convicts to any extent?—I do not believe that they have prospered sufficiently for that purpose. On the contrary, many of them are very glad to be employed, at a small rate of pay, in guarding the convict prisons.

521. Do you think that in future, under different circumstances, military pensioners, who receive small grants of land in a colony, might become eventually employers of convict labour?—I am afraid not. We have rather a large experience now of military pensioners as settlers. A great many were sent to New Zealand. Some were sent to the Falkland Islands; and, although they are able just to live in tolerable comfort, we do not hear that any of them are amassing wealth. An old soldier makes but a poor farmer.

522. Do you not think that a better class of military pensioners might be sent to the colony than has hitherto been sent?—We should have a larger choice now; but at the end of the last European war many discharged soldiers and pensioners were sent to the colonies, and their settlements have always been very slow in progress. They have generally been behind the mass of settlers in the colony.

523. Then you think that it would be a hazardous experiment to combine transportation with a large emigration of military pensioners to the same place in a new colony?—I think that it would be a hazardous experiment.

524. For instance, the Falkland Islands have been spoken off; do you know whether the climate and other circumstances of the Falkland Islands would enable a population such as I allude to, to raise sufficient means for their subsistence?—I think they could barely raise the means for their subsistence, and no more; the Falklands constitute a very poor and languishing settlement: the old soldiers there just live, and no more.

525. What does that arise from?—It is an inhospitable climate; extremely boisterous; indeed, I remember one of the few advocates of the Falklands whom I ever met, told me that he believed some products would grow very well, if the wind did not blow them down as fast as they came above ground.

526. Do you know whether corn will grow there?—It must be carefully sheltered; it must grow behind a wall.

527. Even

527. Even in the valleys of the Falkland Islands?—I am afraid of entering so far into particulars. *T. F. Elliot*, Esq. 21 April 1856.

528. Mr. *J. Wynne.*] With regard to the inferiority of the Irish prisoners, do you consider that that arises so much from prison discipline, as from there being a greater number of artizans among the English convicts than among the Irish?—I would hardly undertake to pronounce upon the cause of the difference; but I earnestly hope that I may not be supposed to have said anything disrespectful or unkindly of Irishmen in what I have mentioned.

Lunæ, 28° *die Aprilis*, 1856.

MEMBERS PRESENT:

Mr. Baines.	Mr. Massey.
Lord Naas.	Mr. Beckett Denison.
Mr. Adderley.	Mr. Deedes.
Mr. Wickham.	Mr. Monckton Milnes.
Mr. John Wynne.	Mr. Ker Seymer.

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Captain *Donatus O'Brien*, called in; and Examined.

529. *Chairman.*] WHAT office do you hold?—Director of Convict Prisons in connexion with Colonel Jebb, the chairman of the department, and Captain Whitty, the other director. Capt. *D. O'Brien.* 28 April 1856.

530. What is your own peculiar department?—To superintend the prisons where prisoners are confined in separate confinement in the first stage of their punishment as convicts, together with the superintendence of Parkhurst Prison, and the superintendence of Brixton Prison, where female convicts are confined.

531. Can you give the Committee information as to the number of convicts on the 11th of March 1856 in the convict prisons in England?—I can.

532. You have your information made up to that day, I believe?—I have. There were then in separate confinement 1,716 male convicts. I am speaking now of male convicts only, not of female convicts; and I do not include Irish convicts. In the public works prisons there are 3,729. Invalids in "Stirling Castle" hulk and at Dartmoor Prison, 1,155. At Parkhurst there were 383 juvenile prisoners sentenced to transportation and penal servitude; making a total of 6,983 male prisoners sentenced to transportation and penal servitude.

533. Which are the prisons that you call public works prisons?—The hulks at Woolwich, Portsmouth Prison, and Portland Prison, to which prisons convicts are sent after having passed a period varying from nine months to twelve months in separate confinement.

534. In what prisons do they pass that first period of separate confinement?—Milbank Prison, Pentonville Prison, Wakefield Prison, and Leicester Prison. Until very lately, several prisoners were confined in other prisons, but I have not mentioned those other prisons, because the numbers are reduced now to very few.

535. Are those prisons which you have enumerated all that are at present in use for that purpose?—Yes.

536. Do you no longer rent cells at Leeds, Wakefield, Northampton, Bath, Reading, and Bedford?—All those prisons have been given up, or are in course of being given up, with the exception of Wakefield and Leicester; the numbers are reduced to two or three or four in each place, and when those are taken away, no more will be sent.

537. Will you just state again the prisons which will be retained for that purpose when your arrangements are complete?—Milbank will be retained, capable of holding 1,100 prisoners; Pentonville will be retained, capable of holding 560; Wakefield will be retained, to hold 400 prisoners; and Leicester will be retained, to hold 115 prisoners.

Capt. *D. O'Brien.*

28 April 1856.

538. When you speak of Wakefield and Leicester being retained, you mean that you will continue the practice of renting, on the part of the Government, certain cells in those prisons?—Yes.

539. Can you now give the Committee information as to the number of licences issued in the several quarters of years, from the 1st of April 1854 to the 31st of March in the present year?—Yes.

540. What are these licences?—Licences which are commonly termed tickets of leave.

541. Licences or tickets of leave?—Yes; in the quarter ending June 1854, there were 480 licences issued; in the quarter ending September 1854, there were 551; in the quarter ending December 1854, there were 550; in the quarter ending March 1855, there were 433; in the quarter ending June 1855, there were 761; in the quarter ending September 1855, there were 550; in the quarter ending December 1855, there were 694; in the quarter ending March 1856, there were 660; making a total of 4,679.

542. Have you a statement of the number of licences issued previously to April 1854?—Yes, they amounted to 649; making a total of 5,328 licences issued to the 31st of March 1856.

543. Have you a statement of the numbers of licences revoked within those same periods?—Yes. In the quarter ending June 1854, there were 8 licences revoked; in the quarter ending September 1854, there were 2 licences revoked; in the quarter ending December 1854, there were 12 licences revoked; in the quarter ending March 1855, there were 19 licences revoked; in the quarter ending June 1855, there were 28 licences revoked; in the quarter ending September 1855, there were 28 licences revoked; in the quarter ending December 1855, there were 28 licences revoked; and in the quarter ending March 1856, there were 55 licences revoked. Previously to June 1854, there was one licence revoked; making a total of revocations, up to the end of March 1856, of 181. I may say that in the Return which was handed in by Mr. Waddington, the number which he gave was 179, but he took his numbers up to the 11th of March. In order to make the comparison, which I shall be able to make, I have taken the numbers up to the end of March 1856; my total is 181, his total is 179.

544. Mr. *B. Denison.*] You say that there were 480 licences granted in the first quarter, and eight revoked?—Yes.

545. And in the second quarter there were 551 granted, and two revoked?—Yes.

546. Do you mean that two were revoked of those 551, or of the whole number then in existence?—I do not mean that two out of the 480 were revoked, but I mean that in that quarter, ending June 1854, eight licences were revoked.

547. Take the second period; when there were 551 granted, two appear to have been revoked?—Within the same period.

548. Are you able to say whether the two which were revoked belonged to the 551 that were granted in the second quarter, or might they be two of the 480 which were granted in the first quarter?—I do not know which quarter they belonged to.

549. I will take the sixth quarter, when 28 were revoked; have you any means of knowing whether those 28 which were revoked, belonged to that particular quarter in which they had been granted, or whether they belonged to some previous quarter?—They partly belonged to the quarter in which they were revoked, but the majority of them belonged to previous quarters.

550. *Chairman.*] Can you give the Committee information, showing a comparison of the discharges in 1854 with revocations in corresponding periods of 1855?—Yes; in the quarter ending June 1854, there were 480 discharges; in the quarter ending June 1855, there were 28 revocations; in the quarter ending September 1854, there were 551 discharges; in the quarter ending September 1855, there were 28 revocations; in the quarter ending December 1854, there were 550 discharges; in the quarter ending December 1855, there were 28 revocations; in the quarter ending March 1855, there were 433 discharges; in the quarter ending March 1856 there were 55 revocations; making a total of 2,014 discharges in the year ending March 1855, and 139 revocations in the year ending March 1856; the revocations in the year ending March 1856 bearing a proportion

tion of 6¼ per cent. to the discharges which had taken place in the previous year. The reason why I compared these was, that in going through the different revocations, I found that in the revocations which took place in 1856, the great majority consisted of prisoners who had been one year and less than one year discharged on licence. Of the 139 revocations which I have mentioned as having taken place in the year ending March 1856, 109 were in respect of prisoners whose licences were revoked within 12 months after their discharge; that is to say, the prisoners whose revocations took place in the year ending March 1856, bore a proportion to the discharges for the year ending March 1855, of about 5½ per cent. It is difficult to put the numbers in any way which will give an accurate per-centage of the revocations that take place in one period with respect to prisoners who may be discharged in a corresponding period. For instance, the number of discharges in the first six months, that is to say, from the 1st of October 1853 to the 31st of March 1854, were 640; and up to the present time, covering a period of from two years to 2½ years, the number of licences revoked are 29, being equal to about 4½ per cent. Hence of those that were discharged in the first six months there are only 4½ per cent. returned; whereas, in the year ending March 1856, 5½ per cent. of the discharges of which had been granted within 12 months previously, were revoked. It is clear that it is very difficult to show any exact per-centage of revocations. The returns of the convicts who have fallen into crime, and who have been re-sentenced, are at the Home Office; we have not them in our office. There were 422 men discharged with licences stated by Mr. Waddington as having fallen into crime, including the 179 revocations which he mentioned, or, as I have it, 181 revocations. I may say that it is scarcely safe to estimate proportions when the actual figures may be obtained; but assuming an analogy between the periods when revocations took place and when the remaining 240 were sentenced, we do not exceed an estimate of more than 12 per cent. of the numbers who have fallen into crime after having been discharged. I do not wish to convey the idea that 12 per cent. will represent all those who have actually fallen into crime; far from it, because there are a great many who have fallen into crime of whom we know nothing. For instance, at my last visit to Wakefield, I spoke to a prisoner in the usual way, asking him if he had anything to say, and he turned to me and said, "Why, Captain," so-and-so, and so-and-so. I asked him how he knew that I was a Captain; he laughed, and said, "Oh! it does not signify." I asked the warders if they knew that the man had been a ticket-of-leave man: they said they suspected he had been so, but they were by no means sure. It was clear he had been a ticket-of-leave man, and knew who I was. But if I guess the undiscovered culprits at eight per cent., and I think I allow a very large margin, we then have only 20 per cent. known and unknown relapses. It however seems to me that fixing the per-centages on the smaller figures may convey a correct idea of the criminality, but it does not convey to the public mind a correct idea of reformation; 20 per cent. representing the criminality may appear rather startling, but 80 per cent. representing the reformation appears to me to be satisfactory; and I would remark, that a system which turns four-fifths of our worst population into respectable citizens is more successful in its results than I, at any rate, could have anticipated three years ago.

551. Mr. *B. Denison.*] Do you think that you are quite safe in using the word "reformation" as applied to the 80 per cent.?—I use the word "reformation" in the sense that the persons who are so discharged may be considered so far reformed as to conduct themselves fairly and decently.

552. Is it not rather a fairer inference that you know nothing against them; if you say that they are reformed, you ought to be able to prove that they are really leading an honest life; but according to the notion on my mind, all that you can say of them is this: that you have no further knowledge of them after they get out of prison; you do know, of course, as to those whose licences have been revoked, and the others who have been reconvicted, which number you put at 20 per cent.; but I should be very glad to be convinced that the other 80 per cent. are really reformed; it is rather more a negative quality than a positive quality; however, it is a mere matter of opinion; I suppose what you mean is, that you know nothing against them?—I assume that 12 per cent. are known to have actually fallen into crime; I assume 8 per cent. additional as the outside of those who may have fallen into crime, but of whom we know nothing; the remaining 80 per cent. would therefore represent the men who have been discharged on licence, and

Capt. *D. O'Brien.*

28 April 1856.

have not fallen into crime, and to that extent, and to that extent only, would I apply the word "reformation."

553. Mr. *Adderley.*] You should not say "who have not fallen into crime," but who have not been detected again in crime for a twelvemonth since their release; does it amount to more than that?—My explanation is this, that, taking all those who have been reported to the Home Office, including the revocations, which may amount to about 12 per cent., about eight per cent. more of whom we know nothing, may have fallen into crime; undetected culprits: leaving 80 per cent. who have not fallen into crime at all, known or unknown.

554. Mr. *B. Denison.*] Even the eight per cent. is imaginary?—It is.

555. Then you might as well take it at 88 per cent.; you certainly make an allowance of eight per cent. for parties supposed not to have been known, and there you stop; and you then assume that there are 20 per cent. of the parties who have been in prison who, in one way or another, have relapsed. You have used the word "reformation," but I should be glad to find that that word was really applicable to them; I think all that you can say, from your evidence at all events, is, that you know nothing against them; do you know anything for them; is any considerable number of them known to be in wholesome and healthy employment?—I merely estimated the number; that estimate is a guess, I acknowledge.

556. Mr. *M. Milnes.*] Have you any other means of judging as to what you call reformation, except the plain fact of these persons coming again under the operation of the law?—Nothing but that.

557. But are not these persons submitted to a certain surveillance on the part of the police?—Not to any great extent.

558. Mr. *Deedes.*] When you have been talking of discharges throughout, it applies to discharges under tickets of leave?—Yes.

559. *Chairman.*] Do you hold in your hand a copy of a letter addressed by Colonel Jebb to the different convict prisons, upon the subject of the gratuities paid to prisoners on their discharge?—Yes; it is a letter dated 4 January 1856.

560. Will you read it?—"Gentlemen: With reference to the circular, dated June 1854, relative to the mode of paying gratuities, &c., to convicts released on licence, I have to acquaint you, that the Secretary of State has been pleased to authorise the adoption of the following scale for their future payment; viz., 5 *l.* and under to be paid on discharge; above 5 *l.* and under 8 *l.*, 4 *l.* to be paid on discharge, and balance at the end of two months; 8 *l.* and under 12 *l.*, half to be paid on discharge, and half at the expiration of three months; 12 *l.* and under 20 *l.*, 5 *l.* to be paid on discharge, half of the remainder in two months, and balance at the expiration of three months more; and I have to request that you will make arrangements for carrying the above scale into operation."

561. Can you give any information to the Committee on what has been done upon the subject of these gratuities, as to the total amount for one year?—The total amount for one year has been 12,369 *l.* gratuities paid to convicts discharged with licences.

562. Have you any further information upon that point?—The average per head has been 6 *l.* 2 *s.* 9 *d.*

563. Mr. *Wickham.*] What is the greatest sum which any convict has been paid?—I am not able to tell you.

564. Mr. *Adderley.*] How are those sums of money earned by prisoners?—According to the amount of work which they have done.

565. What is the system pursued in that respect?—If you ask the question of my colleague, he can give you the information better than I can, as the prisons where public works are carried on are not under my superintendence.

566. Is the payment by job or by time?—It is not payment by job.

567. *Chairman.*] When you speak of your colleague to whom you refer us, do you mean Captain Whitty?—Captain Whitty.

568. Can you give the Committee information as to the periods of discharge with licences relative to the lengths of the sentences?—I can; but as questions of detail will possibly arise upon that point, I would prefer leaving that also, if the Committee please, to Captain Whitty to answer.

569. I believe you mentioned Parkhurst prison as being one of the prisons under your own immediate superintendence?—Yes.

570. For what description of prisoners is that prison appropriated?—For

prisoners sentenced to transportation, at the age of 16 and under, and for prisoners sentenced to between one and two years' imprisonment; the latter description of prisoners has only very lately been sent there.

571. For how long has it been the practice to send that latter description of prisoners to Parkhurst?—Within the last year.

572. Mr. *Deedes.*] Of what age is that description of prisoners?—The same age: 16 years and under, when sentenced.

573. *Chairman.*] What are the present numbers in Parkhurst?—On the 6th of April there were 423 prisoners, of whom 36 were sentenced to the shorter sentences; the remainder were sentenced to penal servitude, or transportation.

574. Mr. *Adderley.*] Can you state how many were sentenced to penal servitude, and how many to transportation?—I have not a return showing that, but I could prepare it if required. The numbers have been very much diminished in the last few years. In 1850, the daily average was 620; in 1855, the daily average was 482: the present number, as I have stated, of those sentenced to penal servitude and transportation is only 383. Therefore there has been a successive diminution of numbers of those sentenced to penal servitude and transportation from 1850 down to the present time.

575. *Chairman.*] Can you state to the Committee the system of treatment adopted at Parkhurst, with respect to the prisoners who are sent there?—As soon as they have gone through their various grades, and have been a certain time in the first class, they receive their licences, provided they have passed through the regular time that adult prisoners have to pass through. Every prisoner received into Parkhurst remains four months in the probationary ward; in the third class he remains four months; in the second class he remains six months; in the first class he remains 10 months; and then, provided he has passed through the periods which are allotted to adult prisoners, in respect of their sentences, he receives his discharge; that is to say, a prisoner who is sentenced to seven years' transportation is discharged at the end of three years, provided he has been in the first class 10 months: a prisoner sentenced to 10 years' transportation is discharged at the end of four years, provided he has been the same period in the first class.

576. Mr. *Adderley.*] Is he discharged altogether?—He is discharged on licence.

577. *Chairman.*] What are the rules under which prisoners are discharged upon licence; have you those rules with you?—I have no special rules to offer to the Committee beyond that which I have been stating.

578. Mr. *Adderley.*] Do you mean that a boy now sentenced to seven years' transportation is kept three years in Parkhurst, and then discharged on licence?—Provided his conduct has been good.

579. If the sentence is transportation, still he is discharged on licence?—Yes. No prisoners have yet been discharged who have been sentenced to penal servitude.

580. Mr. *B. Denison.*] The Act does not allow that?—The Act allows it; but none have been discharged.

581. Mr. *Adderley.*] Then all the cases which you have alluded to were cases under sentence of transportation at the time of the passing of this Act?—Yes.

582. *Chairman.*] They were persons actually under sentence of transportation at the time the Act was passed?—Yes.

583. What are the gratuities which are given to the prisoners at Parkhurst upon their discharge under licences?—Prisoners who are in the first and second classes are entitled to certain gratuities according to their labour. For instance, a prisoner in the first class, who is in the general ward, is permitted to have 6 *d.* a week, and if he is in the junior ward he is permitted to have 4 *d.* a week. In the second class he is permitted in the general ward to have 3 *d.* a week, and in the junior ward 2 *d.* a week; and when he is discharged, the sums that he may thus have obtained are paid to him, under regulations made for that purpose: but he gets nothing before he is discharged on licence.

584. What are the regulations issued?—The regulations for paying those gratuities are the same as those I have handed in to the Committee in the circular letter of Colonel Jebb. As yet no second instalment has been paid; the sums have been too small.

585. What is done with respect to clothing a person of that description?—A lad gets a good suit of liberty clothing, and two shirts, his Bible, and his Prayer Book.

586. Mr. *Deedes.*] To enable him to go out?—Yes. The usual practice, when there

Capt. D. O'Brien.

28 April 1856.

there are several prisoners to be sent to London, or beyond London, is to send an officer with them to London, who sees them to their homes in London; or if they have to go further, he puts them into the train, and sends them off, but does not go further than London with them.

587. Mr. *Adderley.*] Suppose they have no homes?—There are some prisoners who have no homes and have no friends to receive them. At first these prisoners were not recommended to the Secretary of State for discharge when their time came; they were detained in hopes that something might turn up in their favour; but eventually it appeared very hard upon these prisoners that they should be detained in prison, simply because they had no friends to receive them. Each case was submitted to the Secretary of State, and in every instance in which a prisoner has been able to earn his own livelihood, though he has had no friends to receive him, the Secretary of State has permitted his discharge on licence.

588. Mr. *Deedes.*] Where has the prisoner under such circumstances been sent; would he be delivered in London also?—He would be delivered in London, if he had been convicted in London.

589. How if otherwise?—He would be delivered at the place where he had been convicted.

590. *Chairman.*] He would be sent into that county?—He would be sent into that county.

591. Mr. *Adderley.*] In those cases where a prisoner without any home was detained by the Secretary of State, he was kept upon some proper work?—Yes.

592. Do you at once release those prisoners who have no homes now?—Yes.

593. And send them to the place where they were convicted?—Yes.

594. Mr. *B. Denison.*] Will you describe the practical operation of setting a young man at liberty who has no friends or home to go to. Take any place you like in the West Riding of Yorkshire. Supposing a boy has been committed from Leeds, and there are no friends to send him to, what would you do with that boy?—I had better describe what has been done with respect to boys sent to Leeds. More than one convicted at Leeds have been sent down to Leeds; but in those cases I have written to the governor of Leeds gaol requesting him to pay the boy his gratuity, to look after him, and endeavour to get him work; and at Leeds that has been done by the governor, Mr. Paige, in three or four different instances.

595. Is it your practice, when a boy has no home to go to, to send him to the governor of the gaol at the place to which he is to be sent, requesting him to look after him?—Only in cases where we know the governor of the gaol; but if a boy were going to another place where we did not know the governor of the gaol, he would be left to provide for himself.

596. Take Bradford, where there is no gaol?—He would be sent up to London in charge of an officer; the officer would see him into the railway train, and then we should possibly hear no more of him.

597. You would pay his fare to Bradford?—Yes; and give him a post-office order for the gratuity coming to him.

598. Upon the postmaster at Bradford?—Yes.

599. Then, so far, it would tend to insure his getting back to Bradford?—Yes.

600. And when he got back to Bradford, or any other place similarly situated, he would take his chance?—Yes.

601. There are but few places to which you could send a boy, or a young man, where there is a governor of a prison; I may assume that there are only two in the West Riding of Yorkshire; Wakefield and Leeds?—Wakefield and Leeds are the only two in the West Riding of Yorkshire, and we have sent to the governors of both those places.

602. With the exception of those two, parties are sent to the respective towns with a post-office order, to get a small amount of money from the postmaster and take their chance?—Yes; but in all these cases the boys have been especially reported as being able-bodied, and capable of earning their own living when discharged with licence.

603. *Chairman.*] And of good behaviour, I suppose?—They are not discharged with licences, unless their behaviour has been exemplary for a certain fixed time previous to their discharge with licence.

604. Mr. *Wickham.*] They are never discharged till they have been 10 months in the first class?—It is so.

605. Mr.

605. Mr. *Deedes.*] On the subject of labour, you stated that certain prices, 6 *d.*, 4 *d.*, 3 *d.*, and 2 *d*, were paid for labour in certain classes; what description of labour is that?—Agricultural labour, tailoring, carpentering, smith's work, and brick-making.

606. The sum which they receive does not depend upon the amount of work done, but it is so much, according to the class in which they are?—The price depends upon the class which they may be in, and upon the report which the officer makes weekly of the individual's work; not as to the amount of work which the individual actually does, but as to his being generally industrious.

607. Mr. *B. Denison.*] Then it is a reward for general conduct?—Conduct is a considerable ingredient. I should have added, and, with your permission, will add now, that there is this difference between the periods granted to the governor to discharge prisoners with licences, after he has received the licences, on the public works and at Parkhurst. On the public works, he is bound to discharge the prisoner within one month after he has received the licence; but, in order to enable boys who have not friends to have inquiries made about them, or to enable the governor, or the chaplains, or myself to do anything for them, the Secretary of State has permitted the governor to hold the licence for three months after he has received it for the benefit of the boy.

608. Is there any agricultural labour pursued at Parkhurst to any great extent?—There are 60 acres under cultivation by spade labour.

609. How many persons work at it; the whole of these Parkhurst prisoners, I suppose, may be called upon by rotation to work at it; first of all, is the whole of the 60 acres worked by spade labour?—By far the greater portion of it is worked by spade labour.

610. How many prisoners may be devoted to that work?—Above three-fourths.

611. You have said that there are various handicraft works besides?—Yes.

612. Can you tell the Committee to what extent the prisoners are employed in agricultural labour?—Above three-fourths of the prisoners are employed daily in agricultural pursuits, provided the weather permits. On rainy days the boys are not on the land, but they are employed in the prison at tailoring and other in-door pursuits.

613. Have you any means of knowing whether they improve much respectively in any occupation which they are put to?—Yes, they do very much; they improve in carpentering; there are, however, very few that are carpenters; however, they improve in smith's work, but there are very few that are engaged in smith's work; the tailoring is very good; the shoemaking is likewise very good.

614. Do you employ many in shoemaking?—The whole of the shoes for the establishment, the shoes and boots for the officers, and a certain amount of work taken in from the neighbourhood, occupy them in shoemaking and bootmaking

615. I suppose, then, it is thought that the employment of a shoemaker is a wholesome and desirable employment for them?—Yes.

616. Are you aware that there is no trade in the kingdom which is so much overdone as the shoemaking trade?—I do not know that; it may be so

617. Are you aware that there are more broken-down shoemakers in the different workhouses than from any other trade which you can mention?—I was not aware that such was the case. I am quite free to admit that very few of them get such a knowledge in handicraft as to support them in that handicraft after their discharge.

618. Mr. *Adderley.*] When the payments of the balances are made to the discharged prisoners, is any inquiry made at that time as to what the prisoner is doing?—There has been no second instalment paid from Parkhurst, and therefore such a case as you mention has not occurred.

619. Is there any rule as to what should be done in that case?—Yes.

620. What is it?—A certificate is required from the clergyman of the parish, from a magistrate or from other persons of respectability, before any second instalment is sent from the prison.

621. And so for further instalments?—And so for further instalments; that is the rule with respect to all convicts, adults, juveniles, and women.

622. How are such payments made?—By post-office order.

623. To the prisoner?—To the prisoner, he sending in a receipt.

624. Mr. *Deedes.*] Can you state the largest amount which has ever been

Capt. *D. O'Brien.*

28 April 1856.

received by any one prisoner?—To a juvenile prisoner there has been nothing paid over 5 *l.*

625. But he may have entitled himself to receive sums to the amount of 5 *l.*?—Yes.

626. In any instance would that be paid at once, or in all instances would it be by deferred payments?—In all instances it would be paid according to the circular which I have read and handed in.

627. Mr. *Adderley.*] Can you make any suggestions as to an improvement in the mode of discharging prisoners from Parkhurst?—It would be a very great improvement if there was any arrangement made for their being emigrated.

628. Supposing that impossible, can you make any suggestion of a more careful mode of turning them out in this country?—I am not prepared to offer any suggestion to the Committee.

629. *Chairman.*] Have you any information to give the Committee with regard to the prisoners who have been sent out on licences; I mean as regards their subsequent conduct?—There has been very great difficulty in the first place in procuring places for them to be sent to. The governor of Parkhurst Prison has been very active in the matter; and I hold in my hand a list of prisoners for whom employment was procured by him: "1. A. B., domestic servant. His master was highly pleased with him at first, but afterwards some difference arose; A. B. left his place and entered the Royal Navy, in which he is rated as an able seaman, and doing well. 2. J. L., seaman on board a collier brig; doing very well. 3. B. M., ditto, ditto: did very well till accidentally drowned in the Black Sea by falling overboard. 4. J. H., doing very well as a sailor; giving great satisfaction to his captain. 5. G. T., made three voyages to the West Indies in a mail steamer; behaved well, and had a good character; afterwards entered a militia regiment, in which he is now serving. 6. J. B., placed on board a collier on trial before apprenticeship; suffered grievously from sickness on the first voyage, and, with the captain's consent, left the ship at Shields, went to Edinburgh, fell amongst his former companions, and was apprehended and re-convicted. 7. J. M'L., placed on board a collier, left her, and entered the Royal Navy; deserted his ship, and was seen in Liverpool, apparently destitute. 8. R. C., placed on board a collier, left her, and entered the Royal Navy, in which he is doing well. 9. T. D., placed on board a sea-going merchant ship; last report good. 10. T. B., apprenticed on board a brig; giving great satisfaction to his captain, and well pleased with his duty; has repeatedly visited the prison." These prisoners had either no friends to go to, or their friends were so poor, and leading such disreputable lives, that the governor thought it far better to put them out in any respectable way than to send them adrift.

630. All the persons in that list are persons of that description?—Yes. I have a list of prisoners for whom employment was obtained by the chaplain to Parkhurst prison: "1. G. W., placed at work with a respectable shoemaker; could not earn enough wages; left his place, and went on board a collier. Made one voyage to Sunderland; left his ship there, and became a strolling singer in the streets; apprehended for felony; convicted and sentenced to penal servitude. 2. W. C., domestic servant; behaved well, and gave satisfaction to his master; a fellow servant told neighbours that W. C. had been a convict; he was so much annoyed, that he left his place and enlisted. He is doing very well in the army as an officer's servant. 3. J. R., domestic servant; has conducted himself very steadily and respectably, and has given full satisfaction to his master. Mr. Murray, the farm bailiff, being acquainted with the proprietor of some large brickfields in Berkshire, induced him to take three young men from Parkhurst into his employment: they, however, were very much disgusted with the conduct and language of their fellow-workmen, and wished to leave the place as soon as possible; one went home to his friends, and enlisted in a militia regiment; the second, I have not heard of since he left. The third wrote me word that he would stay where he was, till he could get some more respectable employment, though he very much disliked his associates. Schoolmaster Morris obtained employment for two prisoners on board ship: 1. J. M. is doing very well; about to sail now from Bordeaux for Valparaiso, having just returned to the former port from Martinique. 2. J. M. was doing well when last last heard of."

631. Mr. *Adderley.*] Who paid for the outfit and the apprenticeship of those prisoners?—There were no apprentice fees, so far as I recollect, but the outfit was paid out of the gratuity. Those boys who were going to sea were differently

ferently fitted out from those who were going to labour; for instance, instead of giving him a pair of corduroy trousers and a fustian jacket to labour in the fields, he got a good comfortable sea-jacket and a pair of blue trousers. I myself have taken a great deal of trouble with regard to several Parkhurst prisoners. I have notes of what I have done in the matter, and if the Committee wish it, I will read them. I took a great deal of trouble in 1854 at Liverpool among the shipowners. I saw five or six different gentlemen who were leading shipowners in Liverpool, and only one of those could give me any assistance; they disliked the notion of taking lads who had been convicts; they said that they kept their berths for the sons of their own people who were respectable, and that they did not like to take those who had been the reverse. However, one gentleman promised a berth for a boy, and he said that he would give a second a berth if he turned out well. Unhappily difficulties arose with respect to the sailing of the ships, and I have not heard anything more from him.

632. Were hands pretty plentiful at that time at Liverpool?—There was an average. I asked the question; there was no deficiency or the reverse. Several of the gentlemen connected with shipping at Liverpool said that they did not like the notion of taking boys from Government prisons when the Government refused at that moment to give them a hulk to put their own prisoners in; that was one difficulty. I then tried Manchester; but at Manchester a stipulation was proposed, that if the Manchester people took boys from other places, Manchester boys should be sent elsewhere; I had no power to make such a promise. The mayor, whom I saw, and two or three aldermen, said that they would be very glad to assist if they could, but this stipulation existing, no result was produced. I sent two boys to a gentleman who is well known, I have no doubt, to many Members of the Committee, Mr. Joseph Pease, once member for South Durham; he kindly took these two lads; their characters were good, and he treated them well; however, they soon left him; one, if not both, went on board ship at South Shields. I then taxed the philanthropy of a particular friend of mine, whose name may be also known to the Committee, Colonel Stobart, of Etherley, in the county of Durham, an extensive coal-owner, and I sent him, first and last, a dozen in different draughts; they got very good wages, and were very well treated; they gave a great deal of trouble; they were very dissatisfied, and they gradually disappeared, but no dishonesty was even suspected among them. I then picked out a promising lad for a cabinet-maker at Liverpool; the cabinet-maker said that if this lad behaved himself properly, and gave satisfaction, he hoped he would be the first of a succession of Parkhurst boys who might be sent to him; that he would take care that the other workmen knew nothing at all about him. I sent him down accordingly; he did well enough for three months, and then he left him, assigning some trifling reason; afterwards that boy got into a scrape, and his licence was revoked.

633. *Chairman.*] What sort of scrape; some offence?—Yes, he committed some offence; this was very unfortunate, as of course I could not ask the cabinet-maker to take any more; nor could I ask Colonel Stobart to take any more after the dozen whom I had sent him had left him. One lad I sent down to Bedford, and he has succeeded admirably, but he is the only one of those to whom I have had anything to say who has remained in his place; in fact, after their discharges with licence they will all roam; they will go upon what they term the tramp, and then it is great good fortune if they turn out well. This was the case in Van Diemen's Land, and it has been the case also in Western Australia; and I believe that that was the chief cause why Governor Fitzgerald refused to take any more of them in Western Australia.

634. Do you know that it was so?—I know from his despatch that Governor Fitzgerald refused to take any more. Place these lads, however, where you will in this country, they will contrive to get back to their former ground; that is the term they make use of themselves; but officers who have taken them to their homes, and lads whose licences have been revoked, have stated, that when they get home they are generally disgusted, and they cast about for a livelihood of some sort or another elsewhere. A few have come to me in Parliament-street, and have demanded work wanting me either to get them either into the Army or into the Navy; to get them anything rather than that they should lead a dishonest life. I believe the majority of them are disposed to lead an honest life, but when they begin to roam in the way I describe, it is quite evident

Capt. *D. O'Brien.*

28 April 1856.

that there are great difficulties in the way of their becoming eventually steadily settled.

635. Lord *Naas.*] Are there any instances of their parents taking them back again?—A great many.

636. *Chairman.*] These boys of whom you have been speaking, about whom the governor interested himself, about whom the chaplain interested himself, and about whom you interested yourself, were boys, as I understand you, who had no friends to whom they could be sent?—Yes.

637. Mr. *Adderley.*] Are not the homes of boys of this class generally very wretched ones?—Very wretched.

638. In your experience, is not the wretchedness, and often the immorality of the home, the first cause of these children being thrown upon loose ways of life?—No doubt of it; and when they return to those homes, the first feeling is extreme and intense disgust.

639. Even the better habits which they acquire in prison would lead them in many cases to feel a still stronger disgust for their homes?—Certainly.

640. The love of excitement also is a characteristic of nine-tenths of these boys, is it not?—Yes; and that is increased by their having been so long confined in one place.

641. What was the nature of the employment, which in one particular case you mentioned, that Mr. Pease had put certain boys to who left him?—One lad was employed in rough carpentering work, and the other was employed in ordinary labour work.

642. There are certain classes of employment, which are the readiest modes of disposing of these boys, such as going out on ship-board, and kinds of life which are more according to their tastes, are they not?—Far more so than ordinary labour.

643. *Chairman.*] Have you a table with you, giving information relative to 151 licensed prisoners from Parkhurst Prison, during the four quarters ending respectively 31st March, 30th June, 30th September, and 31st December 1855, showing respectively the date of discharge, the date of information afforded, and particulars?—Yes.

644. Where do you get the information comprised in this table?—From the chaplain of Parkhurst, who has embodied it in his yearly report.

645. You have been speaking all this time of Parkhurst?—Entirely.

646. Will you put in that table?—

[*The Witness delivered in the same, which is as follows:*]

REPORT of INFORMATION received relative to 151 LICENSED PRISONERS during the Four Quarters ending respectively 31 March, 30 June, 30 September, and 31 December 1855, showing respectively the Date of Discharge, Date of Information afforded, and Particulars.

QUARTER ending 31 March 1855.

Initials of Prisoners, and Date of Discharge.	Date of Information, and by whom afforded.	Abstract of Particulars from Letters, &c.
No. 1. W. P. (15 Aug. 1854)	1 Jan. 1855; himself	Doing well in every respect. Contented and well paid for his labour.
No. 2. J. F. (6 Jan. 1854) -	31 Jan. 1855; himself	Doing well.
No. 3. R. R. (3 Jan. 1855)	12 Feb. 1855; himself	Requesting a certificate of character, so as to enable him to procure a situation; the certificate not to allude to his having been in Parkhurst Prison. Information afterwards received stated he was doing well.
No. 4. J. L. (19 May 1854)	18 Feb. 1855; visited the prison officers.	Conduct satisfactory in every respect; has worked for the same master the whole time.
No. 5. G. T. (30 Nov. 1854)	18 Feb. 1855; visited the prison, and remained a night with his old master.	Doing well and liking his employment. Had saved some pounds since his liberation.
No. 6. T. J. (3 Jan. 1855) -	25 Feb. 1855; himself	He says he is doing well and liking his employment.

Capt. *D. O'Brien.*

28 April 1856.

Initials of Prisoners, and Date of Discharge.	Date of Information, and by whom afforded.	Abstract of Particulars from Letters, &c.
No. 7. J. R. (19 Oct. 1854)	28 Feb. 1855; by letters from himself and employer.	Conduct most satisfactory; his master is much attached to him.
No. 8. E. G. (6 Jan. 1854)	1 March 1854; chaplain and principal schoolmaster.	Was cheerful and contented when seen by the chaplain and principal schoolmaster. Expressed himself satisfied with his situation.
No. 9. C. D. (22 Sept. 1854)	1 Mar. 1854; himself	Doing well, and liking his employment.
No. 10. J. B. (9 March 1854)	6 Mar. 1855; himself	At times out of work, and afraid he may be tempted to do wrong, therefore wishes himself back to this place in an honest way. Doing well.
No. 11. W. M. (21 Feb. 1855)	6 Mar. 1855; himself	Was well received by his mother, who is comfortably situated. Looking out for work.
No. 12. T. P. (19 Dec. 1854)	9 Mar. 1855; himself	Requesting a certificate of character so as to enable him to procure a situation; the certificate not to state that he had been a prisoner. Doing well.
No. 13. J. H. (9 May 1854)	12 Mar. 1855; himself	He is still in good work, and doing well; has a house of his own; about to get married.
No. 14. T. R. (10 Mar. 1854)	13 Mar. 1855; returned to this prison	Licence revoked.
No. 15. T. F. (10 Mar. 1854)	13 Mar. 1855; T. R. No. 14.	Sentenced to 10 years' penal servitude for stealing.
No. 16. W. H. (21 June 1854)	13 Mar. 1855; T. R. No. 14.	Sentenced to 10 years' penal servitude for stealing.
No. 17. W. W. (7 Dec. 1853)	15 Mar. 1855; himself	Doing well. Has repeatedly visited Parkhurst.
No. 18. W. C. (18 Sept. 1854)	15 Mar. 1855; employer, chaplain & others.	Conduct satisfactory in every respect, and has been in the same situation during the whole period. Helping to support his mother.
No. 19. C. P. (6 Jan. 1854)	16 Mar. 1855; principal schoolmaster.	Had a contented staid appearance when seen by the schoolmaster. He is fully employed.
No. 20. J. R. (6 Jan. 1854)	18 Mar. 1855; J. L. No. 4, by whom he is often seen.	Doing well.
No. 21. B. M. (1 July 1854)	19 Mar. 1855; employer.	Conduct satisfactory in every respect; has been in the same employment the whole time, under the same master as No. 4.
No. 22. H. J. E. (11 July 1854)	19 Mar. 1855; employer.	Conduct satisfactory in every respect; has been in the same employment during the whole period, with the same master as Nos. 4 and 21.
No. 23. W. L. W. (6 Jan. 1854)	19 Mar. 1855; himself	A sailor boy, doing well.
No. 24. J. F. (14 June 1854)	19 Mar. 1855; himself	Doing well.
No. 25. J. L. (6 Jan. 1854)	19 Mar. 1855; himself	A most intelligent young man, who is very attentive to his business. Living with his parents.
No. 26. C. H. (13 June 1854)	24 Mar. 1855; himself	Has gone to sea.
No. 27. G. B. (13 June 1854)	24 Mar. 1855; himself	Doing well.
No. 28. R. C. (3 Jan. 1854)	26 Mar. 1855; himself	Doing well.
No. 29. H. C. (3 Oct. 1854)	19 Mar. 1855; himself	Conduct satisfactory. He has been in the same situation during the whole period.

QUARTER ending 30 June 1855.

No. 1. W. W. (21 Feb. 1855)	21 April 1855; himself and others.	In full employment. Doing well.
No. 2. W. M. (21 Feb. 1855)	1 April 1855; himself	Working at his trade. Again asked for a certificate of character, so as to enable him to procure higher wages.
No. 3. G. W. (6 Jan. 1854)	1 April 1855; returned to this place.	His licence has been revoked. He says he was only found trespassing.
No. 4. W. N. (21 Feb. 1855)	4 April 1855; himself	Working at his trade, and doing well.
No. 5. J. C. (3 Sept. 1854)	4 April 1855; himself	Doing well.
No. 6. J. B. (11 April 1854)	6 April 1855; returned to this place.	Has been twice in prison for theft; consequently his licence has been revoked. He says he could not obtain employment on account of the severity of the winter.
No. 7. W. P. (15 Aug. 1854)	10 April 1855; himself	Doing well.
No. 8. H. M. (19 Dec. 1854)	10 April 1855; himself	Doing well.
No. 9. J. C. (14 June 1854)	14 April and 24 May 1855; himself and Mr. Meadon, chief warder of Birmingham prison.	Sentenced to six years' penal servitude. He says he could not get work.
No. 10. J. W. (21 Feb. 1855)	16 April 1855; himself	Doing well.
No. 11. C. R. (10 April 1855)	16 April 1855; by No. 10.	Had been kindly received by his mother. Afterwards heard that he was doing well.

Capt. *D. O'Brien.*

28 April 1856.

Initials of Prisoners, and Date of Discharge.	Date of Information, and by whom afforded.	Abstract of Particulars from Letters, &c.
No. 12. A. A. (20 Sept. 1854)	19 April 1855; himself	Has remunerative employment. Doing well.
No. 13. A. G. (21 Feb. 1855)	19 April 1855; by No. 12.	Had just left his native place in search of work, which was found, and is doing well.
No. 14. R. R. (3 Jan. 1855)	24 April 1855; himself	In a good situation, at 40 *l.* a year.
No. 15. P. F. (21 Feb. 1855)	24 April 1855; by No. 14.	In steady work. Doing well.
No. 16. C. P. (6 Jan. 1854)	26 April and 28 May 1855; principal schoolmaster.	Doing well in every respect. His master had raised his wages on account of his zeal in the discharge of his duties.
No. 17. J. R. (15 June 1854)	29 April 1855; himself	In good employment, and doing well in every respect. Expresses his gratitude for the instruction received in Parkhurst.
No. 18. H. C. (10 Oct. 1854)	1 May and 25; also 30 June 1855; himself.	May 1st. Doing well in every respect. His master and mistress very kind to him. May 25th. Had been found out by old associates, who were tempting, annoying, and exposing him. June 30th. Had got another place; doing well.
No. 19. J. P. (19 Dec. 1854)	1 May 1855; by No. 18.	Sentenced to four years' penal servitude for relapsing into his old habits.
No. 20. A. A. (21 Feb. 1855)	7 May 1855; himself	Living with his parents, and earning 10 *s.* per week.
No. 21. J. J. (3 May 1855)	11 May 1855; himself	Expresses himself gratefully for the kindness received, and the advantages derived while in Parkhurst Prison. He intended to go to his relations in America.
No. 22. T. R. (15 June 1854)	12 May 1855; by a prisoner's mother's letter.	Sentenced to 21 years' penal servitude for housebreaking.
No. 23. W. H. (14 June 1854)	12 May 1855; the governor of Parkhurst.	Licence revoked.
No. 24. P. F. (9 Oct. 1854)	16 May 1855; himself	Doing well in every respect.
No. 25. E. G. (6 Jan. 1854)	28 May 1855; by No. 16.	Doing well in every respect.
No. 26. C. R. (3 May 1855)	28 May 1855; himself	Doing well. Living with his sister.
No. 27. H. M. (4 May 1855)	10 June 1855; himself	Doing well.
No. 28. J. L. (6 Jan. 1854)	10 June 1855; himself	Doing well in every respect. Has been in constant employment with the same master during the whole period.
No. 29. E. E. (6 Jan. 1855)	10 June 1855; by No. 28.	Doing quite well. Works along with No. 28.
No. 30. W. C. (18 Sept. 1854)	16 June 1855; the chaplain of Parkhurst.	Was obliged to leave a most comfortable place on account of its having become generally known that he had been a convict. He has got another situation, in which he is doing well.
No. 31. J. F. (21 Sept. 1854)	30 June 1855; the chaplain of Winchester Prison.	In Winchester Prison, having had his licence revoked.
No. 32. R. C. (9 May 1855)	30 June 1855; himself and others	Doing well.
No. 33. J. M. L. (8 May 1855)	30 June 1855; himself and others.	Doing well.
No. 34. W. S. (9 Oct. 1854)	30 June 1855; by No. 32.	Doing very well.
No. 35. C. L. (21 May. 1855)	30 June 1855; by No. 32 and himself.	He is doing very well.
No. 36. S L. (3 May 1855)	30 June 1855; himself	Expressing the deepest gratitude for the kindness and instruction received during the time he was in Parkhurst. He is doing well and in good work.
No 37. T. M. (20 Sept. 1854)	30 June 1855; by No. 38.	Has been re-convicted.
No. 38. M. B. (20 Sept. 1854)	30 June 1855; by No. 36.	Doing well.

QUARTER ending 30 September 1855.

No. 1. J. A. (21 May 1855)	8 July 1855; himself	Complaining of not having been able to procure employment; known, however, to be living honestly.
No. 2. S. L. (3 May 1855) -	8 and 29 July 1855; himself.	Doing well in every respect.
No 3. H. C. (10 Oct. 1854)	14 July and 12 Aug. 1855; himself.	In full employment, and doing well.

Capt. *D. O'Brien.*

28 April 1856.

Initials of Prisoners, and Date of Discharge.	Date of Information, and by whom afforded.	Abstract of Particulars from Letters, &c.
No. 4. T. P. (19 Dec. 1854)	14 July 1855; himself	In good employment in the United States of America.
No. 5. J. B. (14 June 1854)	23 July 1855; W. H. returned to this place, and reported upon last quarter.	Comfortably married, and doing well in every respect.
No. 6. I. P. (6 Jan. 1854) -	23 July 1855; W. H. returned to this place.	Sentenced to six years' penal servitude for relapsing into his old habits.
No. 7. J. J. (20 March 1854)	23 July 1855; returned to this place.	Licence revoked, and returned to this place for relapsing into his old habits.
No. 8. A. A. (20 Sept. 1854)	23 July 1855; a letter received by a prisoner here.	Doing well in every respect, and has been working in the same place during the whole period.
No. 9. J. C. (20 Sept. 1854)	27 July 1855; himself	Fully employed, and doing well.
No. 10. A. G. (21 Feb. 1855)	27 July 1855; visited Parkhurst.	Fully employed, and doing well.
No. 11. R. B. (6 Jan. 1854)	1 Aug. 1855; himself	Doing well.
No. 12. T. A. (4 May 1855)	1 Aug. 1855; himself	Working with his uncle; doing well.
No. 13. P. M. C. (3 Jan. 1854)	1 Aug. 1855; by No. 2	Had been in good employment at 18 *s.* per week, but was in search of work on account of its having become slack at his former place of residence.
No. 14. R. C. (9 May 1855)	2 Aug. and 20 Sept. 1855; himself.	Doing well in every respect.
No. 15. T. J. (3 May 1855)	2 Aug. 1855; himself	In good work, and doing well in every respect.
No. 16. H. D. (15 Aug. 1854)	8 Aug. 1855; seen by the chaplain.	Doing well.
No. 17. W. S. (9 Oct. 1854)	13 Aug. 1855; himself	Doing very well, and has been in the same situation during the whole period.
No. 18. W. P. (15 Aug. 1854)	15 Aug. and 30 Sept. 1855; himself.	Fully employed. Doing well.
No. 19. C. H. (15 Aug. 1854)	15 Aug. 1855; himself and No. 18.	Fully employed. Doing well.
No. 20. W. M. (21 Feb. 1855)	19 Aug. 1855; himself	Earning 10*s.* per week, and expecting an advance.
No. 21. G. B. (26 July 1855)	21 Aug. and 20 Sept. 1855; seen by the principal schoolmaster.	Fully employed, and seemingly happy.
No. 22. D. S. (28 Aug. 1855)	11 Sept. 1855; himself	Doing well, and earning 12*s.* per week.
No. 23. R. B. (26 July 1855)	13 Sept. 1855; himself	Doing well.
No. 24. J. M. (13 May 1855)	13 Sept. 1855; No. 23	Doing well. Earning 15*s.* per week.
No. 25. J. J. (3 May 1855)	13 Sept. 1855; No. 23	Gone to the United States of America.
No. 26. J. M. L. (7 May 1855)	13 Sept. 1855; seen by No. 23 - -	Doing well. This is the information we received the next time we heard of these lads.
No. 27. T. K. (26 July 1855)		
No. 28. E. J. (26 July 1855)		
No. 29. J. F. (14 June 1854)	13 Sept. 1855; a letter received by a prisoner from his father.	In good health; working and doing well.
No. 30. W. P. (28 Aug. 1855)	13 Sept. 1855; a letter received by a prisoner from his father.	Doing well, and earning 22*s.* per week by working at the trade which he learnt while in Parkhurst Prison.
No. 31. J. S. (28 Aug. 1855)	14 Sept. 1855; himself	In good work at 15*s.* per week.
No. 32. G. Y. (15 Aug. 1854)	18 Sept. 1855; himself	In full employment. Doing well.
No. 33. C. H. (14 June 1854)	19 Sept. 1855; himself	In constant work at 15*s.* per week.
No. 34. W. H. (3 Aug. 1855)	23 Sept. 1855; has visited the officers of the establishment twice since licensed.	Doing well. Very cheerful.
No. 35. B. R. (26 July 1855)	27 Sept. 1855; himself, and by No. 34.	Doing well.
No. 36. E. G. B. (21 Aug. 1855).	27 Sept. 1855; himself	In work, and doing well.
No. 37. R. H. (15 Aug. 1854)	30 Sept. 1855; himself	In work, and doing well.
No. 38. R. P. (19 Dec. 1854)	30 Sept. 1855; himself	Engaged on board a steam-boat trading on the coast of Australia. He says he is comfortable and well cared for.
No. 39. H. B. (28 Aug. 1855)	30 Sept. 1855; himself	Working with his uncle, and doing well.
No. 40. J. M. (21 Feb. 1855)	30 Sept. 1855; by No. 39.	Doing well.
No. 41. J. L. (26 July 1855)	30 Sept. 1855; by No. 39.	Doing well.

(*continued*)

Capt. *D. O'Brien.*

28 April 1856.

QUARTER ending 31 December 1855.

Initials of Prisoners, and Date of Discharge.	Date of Information, and by whom afforded.	Abstract of Particulars from Letters, &c.
No. 1. W. P. (28 Aug. 1855)	1 Oct. and 21 Dec. 1855; himself and No. 2. R. R.	Doing well in every respect. Earning 22*s.* per week by working at the trade which he learned while in this place.
No. 2. R. R. (3 Jan. 1854)	1 Oct. and 21 Dec. 1855; himself and No. 1. W. P.	Doing well in every respect, and has been in the same situation during the whole period.
No. 3. A. A. (20 Sept. 1854)	1 Oct. and 21 Dec. 1855; himself and No. 1. W. P.	Conduct most satisfactory in every way.
No. 4. J. C. (28 Aug. 1855)	4 Oct. 1855; himself	In full employment.
No. 5. D. L. (21 Feb. 1855)	4 Oct. 1855; himself	Fully employed, and doing well.
No. 6. T. W. (28 Aug. 1855)	21 Oct. 1855; himself	Fully employed and doing well.
No. 7. T. L. (14 June 1855)	21 Oct. 1855; himself	Doing well in every respect, and earning 21 *s.* per week.
No. 8. W. P. (15 Aug. 1854)	23 Oct. 1855; himself	Fully employed. Conduct satisfactory.
No. 9. T. K. (26 July 1855)	23 Oct. and 4 Nov. 1855; himself and W. P., No. 8.	Doing well.
No. 10. J. W. (21 Feb. 1855)	24 Oct. and 21 Dec. 1855; himself and No. 2.	Sentenced to 21 years' transportation for house-breaking.
No. 11. J. B. (26 May 1855)	24 Oct. and 21 Dec. 1855; himself and No. 2.	The same sentence for the same crime as No. 10.
No. 12. P. F. (21 Feb. 1855)	24 Oct. 1855; by J. W., No. 10.	Doing well. Fully employed.
No. 13. C. R. (10 Apr. 1855)	24 Oct. and 21 Dec. 1855; by Nos. 2 and 10.	Doing well. Fully employed.
No. 14. G. R. (20 Sept. 1854)	30 Oct. 1865; returned to this place.	Licence revoked, and returned to this place because he was put into prison for being out late at night, and for burning his licence.
No. 15. G. B. (9 May 1854)	30 Oct. 1855; by G. R., No. 14.	Conduct satisfactory in every respect. Earning 2 *s.* 6 *d.* per day.
No. 16. R. H. (3 Jan. 1855)	30 Oct. 1855; by G. R., No. 14.	Sentenced to four years' penal servitude for stealing an overcoat.
No. 17. H. W. (12 Oct. 1855)	1 Nov. 1855; himself	Working at the trade which he learned in Parkhurst, in his parents' home.
No. 18. W. S. (9 Oct. 1854)	14 Nov. 1855; visited the prison.	Looking well, and doing very well.
No. 19. R. G. (7 Nov. 1855)	17 Nov. 1855; himself	Was well received by his family, relations, and friends. Doing well.
No. 20. G. M. (7 Nov. 1855)	17 Nov. and 30 Dec. 1855; himself and R. G., No. 19.	Has got a good situation in his native town.
No. 21. G. B. (26 July 1855)	17 Nov. and 15 Dec. 1855; seen by the principal schoolmaster.	A sedate looking lad. Giving satisfaction to his employers.
No. 22. W. R. (21 May 1855)	20 Nov. 1855; himself	Doing well, and earning 15 *s.* per week.
No. 23. T. B. (22 Oct. 1855)	20 Nov. 1855; himself	A sailor boy. Has bound himself for four years.
No. 24. J. S. (26 July 1855)	27 Nov. 1855; himself	Doing well in every respect. Earning above 20 *s.* per week.
No. 25. R. K. (7 Nov. 1855)	27 Nov. 1855; himself	Informing us of his kindly reception by friends and relations.
No. 26. J. S. (28 Aug. 1855)	27 Nov. and 31 Dec. 1855; himself, and by R. K., No. 25.	Doing well, and keeping good company.
No. 27. W. C. (18 Sept. 1854)	30 Nov. 1855; himself	Conducting himself well, and giving his master entire satisfaction.
No. 28. W. E. (22 Nov. 1855)	8 Dec. 1855; himself	Expressing great thankfulness for kindnesses received while in Parkhurst. Doing well.
No. 29. H. W (22 Nov. 1855)	10 Dec. 1855; himself	Doing well. Fully employed.
No. 30. J. J (27 Nov. 1855)	11 Dec. 1855; himself	Doing well. Fully employed.
No. 31. R. C. (9 May 1855)	12 Dec. 1855; himself	Conduct satisfactory in every respect. Has aided his mother by sending her money.
No. 32. H. B. (7 Nov. 1855)	15 Dec. 1855; himself and others.	Doing well, and very happy.
No. 33. W. A. (7 Nov. 1855)	15 Dec. 1855; himself	Working with his brother.

Initials of Prisoners, and Date of Discharge.	Date of Information, and by whom afforded.	Abstract of Particulars from Letters, &c.
No. 34. J. H. (15 Aug. 1854)	15 Dec. 1855; by W. A., No. 33.	Doing well in his situation.
No. 35. T. J. (7 Nov. 1855)	15 Dec. 1855; by W. A., No. 33.	Working at the trade which he was taught at Parkhurst. Doing well.
No. 36. J.M.C.(28Aug.1855)	14 Dec. 1855; by J. W., No. 43.	Going on steadily, and doing well.
No. 37. J. N. (7 Nov. 1855)	16 Dec. 1855; himself	Doing well. Earning 12 *s.* per week.
No. 38. W. M. A. (22 Nov. 1855).	21 Dec. 1855; by R. R., No. 2.	Earning by his situation 10 *s.* per week.
No. 39. W. H. (3 Aug. 1855)	24 Dec. 1855; visited the prison.	Conduct satisfactory in every respect. Fully employed.
No. 40. B. R. (26 July 1855)	24 Dec. 1855; by W. H., No. 39.	Conduct satisfactory in every respect. Fully employed.
No. 41. G. E. B. (21 Aug. 1855).	24 Dec. 1855; by W. H., No. 39.	Conduct satisfactory in every respect. Fully employed.
No. 42. J. R. (19 Nov. 1855)	27 Dec. 1855; seen by the chaplain.	Conduct satisfactory in every respect; has been in the same situation during the whole period.
No. 43. J. W. (4 Dec. 1855)	31 Dec. 1855; himself	Doing well, and working at the trade which he was taught in Parkhurst.

647. Have you a summary of the contents of that table?—I have.

648. Can you state it shortly to the Committee?—Of the 151 in the table who have been discharged, and whose circumstances are known, 134 have turned out satisfactorily; 17 have not turned out satisfactorily. This brings the discharges down to the end of the year 1855.

649. Have you another table which you wish to bring before the Committee?—Yes.

650. What is that other table?—In addition to those 151 whom I have mentioned, there have been 148 discharged, to the 31st of December 1855, with tickets of leave, of whom nothing has been heard. The total numbers, therefore, including those who were first mentioned, and including the latter, amount to 299.

651. Mr. *B. Denison.*] Between what periods?—From the passing of the Act up to the 31st of December 1855.

652. Rather more than two years?—About two years and a half.

653. *Chairman.*] Can you give the Committee information as to the licences revoked with regard to the Parkhurst boys?—Yes.

654. Will you be so good as to state any information in your possession upon that subject?—There have been 9 licences revoked.

655. Mr. *B. Denison.*] Out of how many?—Out of 299 that I have mentioned.

656. *Chairman.*] Are there any cases of prisoners visiting Parkhurst again after their release?—Yes. In order to show what the boys themselves thought of their treatment at Parkhurst, I requested the governor, Mr. Hall, to send me any information he might possess of those who had gone to the place to visit it after they had been released; of these there were three seamen in the Royal Navy; one of them once, one twice, and one five or six times; four collier seamen, one of them twice, one three times, and one frequently; six soldiers, two of them twice, and a third repeatedly; three other licensed prisoners in Parkhurst barracks have recognized prison officers, and have spoken to them when they could do so without attracting the notice of their comrades. Mr. Hall adds, "I have seen letters from four or five other prisoners now on licences, in which they say they wish to revisit Parkhurst as soon as they can find time, and afford the expense of the journey;" that is very satisfactory.

657. From what you have observed of the operation of the present Act, into which the Committee are now inquiring, have you any suggestions which you think it desirable to make with regard to its alteration?—In the first place, it is clear that prisoners with licences who have gone on board ship, or otherwise left the country, have done so in breach of the Act, which requires that these persons shall be kept in the country; I think it right to mention this to the Committee, to show that the Act is broken, and that it is desirable that the law should be altered; I refer to the 9th section.

658. What alteration would you suggest that it is desirable to make?—In the 9th section, after the words "to be at large," I would leave out the words "in the

Capt. *D. O'Brien.*

28 April 1856.

United Kingdom and the Channel Islands, or in such part thereof respectively,' and I would confine it to these words, "or to any punishment substituted for transportation by this Act, a licence to be at large, as in such licence shall be expressed."

659. Is this the form of licence now issued (*handing a Paper to the Witness*)?—Yes.

660. Will you read it?—This is issued to a convict who is not restricted to a particular district.

[*The Witness read the same, as follows:*]

ORDER OF LICENCE to a CONVICT, made under the Statute 16 & 17 Vict., chap. 99, sect. 9.

Whitehall, day of 185 .

HER MAJESTY is graciously pleased to grant to who was convicted of at the for the of on the day of and was then and there sentenced to be transported beyond the seas for the term of years, Her Royal Licence to be at large in the United Kingdom from the day of his liberation under this Order, during the remaining portion of his said term of transportation, unless it shall please Her Majesty sooner to revoke or alter such Licence. And Her Majesty hereby orders that the said be set at liberty within 30 days from the date of this Order.

Given under my hand and seal,

Signed (by the Secretary of State).

(True copy.)

Chairman of the Directors of Convict Prisons.

(On the back.)

NOTICE.

1. THE power of revoking or altering the licence of a convict will most certainly be exercised in case of his misconduct.

2. If, therefore, he wishes to retain the privilege, which, by his good behaviour under penal discipline he has obtained, he must prove by his subsequent conduct that he is really worthy of Her Majesty's clemency.

3. To produce a forfeiture of the licence, it is by no means necessary that the holder should be convicted of any new offence. If he associates with notoriously bad characters, leads an idle and dissolute life, or has no visible means of obtaining an honest livelihood, &c., it will be assumed that he is about to relapse into crime, and he will be at once apprehended, and re-committed to prison under his original sentence.

DESCRIPTION.

Hair - - - - -		
Eyes - - - - -		
Eyebrows - - - -		
Nose - - - - -		
Mouth - - - - -		
Complexion - - - -		
Visage - - - - -		
Make - - - - -		
Height - - - - -	feet.	in.
Trade - - - - -		
Born at - - - - -		
Friends reside at - - - - -		

661. As I understand, you think it desirable that the law should be so altered that there should be the power to grant a licence to be at large beyond the United Kingdom and the Channel Islands?—Such is my opinion.

662. Will you state shortly your reasons for thinking that alteration advisable?—Because practically the Act is evaded. I think it desirable that men should be allowed to go to sea; this clause does not permit them that privilege. I think if a man wishes to emigrate, he should not be confined by this Act to

to this country. Several prisoners have said to me at different times, "I, sir, should be able to get away; I have friends in America;" and I have no doubt that those men do go to the colonies, when in point of fact their licence by law restricts them to remain in this country. In truth, the operation of this law prevents a licensed prisoner emigrating so long as he is a licensed prisoner.

663. Lord *Naas.*] Have there been any boys discharged at Parkhurst on the expiration of sentence?—Several boys have been discharged from Parkhurst on the expiration of sentence, not with tickets-of-leave, of course; they have, however, only been detained there until the expiration of their sentence, in consequence of bad behaviour during the time that they were at Parkhurst.

664. Can you give the Committee any information as to their subsequent fate?—I do not recollect an instance.

665. How many boys have been so discharged?—I have no document at hand to give that information; I can obtain it without difficulty, if required.

666. There will be of course for the future a considerable number of boys discharged on expiration of sentence?—According to the present regulations, all boys sentenced to penal servitude will be discharged at the expiration of their sentences, and not before.

667. Have there been any attempts made to procure situations for boys who have been discharged on expiration of sentence?—Not one that I know of, and for this reason, that those boys could not be recommended in respect of good conduct; if their conduct had been good, they would have been discharged with licences long before.

668. Then the difficulty of procuring situations for boys discharged at the expiration of sentence will in most cases be much more than in procuring situations for those let out on licences?—Their case is almost hopeless.

669. Can you give any information to the Committee with regard to the subsequent fate of any number of boys who have been discharged at any time at Parkhurst on the expiration of sentence?—I cannot.

670. Why cannot you do it for years past in former times?—Previously to the passing of the Act the lads were sent abroad; we did not know, except in very few cases, what became of them.

671. Mr. *J. Wynne*] Are the same pains taken to trace the subsequent career of that class of boys as are taken to trace the career of those let out on tickets of leave?—No, the distance was too great; for several years they were sent to Van Diemen's Land.

672. I mean with regard to those who are now discharged since the passing of the Act; do you take any pains to trace their subsequent career?—Yes, in this respect: they are encouraged to write to the governor and to the chaplain as to how they are going on; but beyond that we take no steps.

673. Mr. *B. Denison.*] Are you in the habit of seeing all the boys at Parkhurst?—I see them all monthly.

674. In your opinion, are they much improved, in their general conduct, morals, and so forth, between the time of their coming in and that of their going out?—I think there is a very great improvement.

675. Are they generally able physically to earn a livelihood?—They are; the place is very healthy; they are very well taken care of; they are very well fed; and though they cannot earn a great deal of money, yet still they are for the most part handy, hardworking lads, who ought not to starve, when discharged.

676. If they are there for two or three years, having come in at 13 and 14 years of age, they probably would be rather fine young men when they went out?—They are, most of them.

677. Speaking generally, do you think they are able, if they are willing, really to earn an honest livelihood?—I have no doubt of it.

678. Are they so far trained in the different handicraft trades and agricultural labour as to be better able to earn a livelihood, if they are willing, after they come out than when they went in?—Certainly; there is no comparison between their capability of earning a livelihood when they go out and when they come in.

679. From your general knowledge of the trades and employments of the country, are you of opinion that they might, if they were so disposed, earn an honest livelihood?—For the most part, I think so.

680. What sort of proportion of them, in your opinion, upon coming out of the prison, do turn to and earn an honest livelihood?—That I am not prepared to say.

Capt. *D. O'Brien.*

28 April 1856.

681. Do you think that 50 per cent. of the boys turned out of Parkhurst go back to an immoral and bad life, and that 50 per cent. earn an honest livelihood; what per-centage of the boys who have been in Parkhurst for two or three years, in your opinion, go back into the world and earn an honest livelihood, you having previously stated that they are well taken care of, that they are trained, at all events for a time, in moral habits, and that they are physically better able to earn a livelihood than when they came in?—From 70 to 80 per cent., as far as we know, may earn an honest livelihood.

682. And the remainder, in your opinion, relapse?—Yes.

683. You are speaking now of boys?—Entirely.

684. To what extent would you apply those observations to adults; so far as your experience goes, is there a greater disposition to reform on the part of the boys than on the part of the adults?—So much depends upon the opportunities which the adult has, or which the boy has, that I am in a difficulty about giving a reasonable answer to the question; but I dare say, if one could get accurately at the facts, it would be found that the adults might be doing well in the ratio of 80 per cent., and the juveniles in the ratio of 70 per cent. I think the advantage is rather on the side of the adults.

685. You, in your previous evidence, stated, that in your opinion there were 80 per cent. who did not return to crime; that there were 12 per cent. who had their licences revoked, and that there were 8 per cent. who might have relapsed, of whom you did not know anything; how far does that apply to juveniles?—I do not think that the per-centage would be so favourable for the juveniles as for the adults; if 80 per cent. represented one, I should fear that not more than 70 per cent. would represent the other; still, I have no data that I can much rely upon when giving this answer.

686. Lord *Naas.*] Are the employments at Parkhurst apportioned to the boys at all in proportion to the length of their sentence, or to the crime for which they are confined?—Nothing is considered with respect to their antecedents, but according to their capabilities.

687. Are the boys who are being taught trades, taught separately or together?—Together.

688. Then they practise agriculture and handicrafts in a body together?—Together.

689. There is no separate system?—Yes, there is a separate system. In stating how the prisoners received their licences, I mentioned that one step was a probationary ward. When a boy is sent by me from Millbank prison to Parkhurst, he is placed in separation for four months, in what is termed the Probationary Ward. During that time he does not labour in association; he attends school in association; but otherwise he is not mixed up with his fellow prisoners.

690. Are they allowed to choose their own employment?—No.

691. You do not make any difference as regards their labour in proportion to the term of their sentence, or their previous character?—No.

692. So that a boy sentenced to a long imprisonment, having been convicted of a very serious crime, and a boy sentenced to a shorter imprisonment who has been convicted of a less serious crime, receive, in point of fact, precisely the same treatment?—Precisely the same.

693. Mr. *Adderley.*] Are you aware that there is a class of persons always on the look out for boys on their discharge, with the object of training them and employing them for thieving purposes?—I have seen a report from a committee at Aberdeen stating that very startling fact.

694. Will you state briefly what you know upon that point?—It is generally well known that the Aberdeen Schools of Reform were exceedingly well managed, and very successful; a committee was formed to inquire into this circumstance, and they obtained information that there were persons pursuing precisely the same course to get boys again into difficulties which had been pursued by the committee to get them out of their difficulties; that whereas Mr. Watson and his friends had encouraged the boys to leave the streets and to behave well, other persons banding together encouraged the boys to leave the schools, to pillage to a great extent, and to bring what they pillaged to them. They appear to have systematically organised their school for thieves, for training them up, sending them out to steal, pointing out to them where the property was to be obtained, and how they might possess it; in a word, these establishments were training schools for the purpose of initiating and employing thieves in their profession, and preparing them to

carry

carry it on with profit and safety to themselves and to their employers. The consequence has been, that there have been a great number more committals latterly than there had been before this combination to which I allude.

695. Are you aware of a similar system existing elsewhere?—I do not know of my own knowledge of any one existing elsewhere, but I have no doubt there is.

696. So that boys, especially on their discharge from prison, are not only liable to fall amongst their old associates, but into such an organised trap on the part of old adult thieves, the greater number of them?—Yes.

697. And if there is no benevolent agency to provide such boys with honest employment, there is probably a very efficient agency to provide them with dishonest employment?—Certainly.

698. Can you state roughly what is the average age of boys on their discharge from Parkhurst?—Between 18 and 22.

699. Mr. *Deedes.*] With reference to that subject, do you know of your own knowledge, or have you reason to believe, that among persons so seeking to entrap boys when they are discharged, any ticket of leave men or convicts who have gone through their period of imprisonment are employed in adopting that course?—I do not.

700. With regard to labour, you gave an answer just now to a question of the Noble Lord opposite with respect to different kinds of labour; I think you said previously on this subject, that so far as handicrafts were taught at Parkhurst, the boys did not arrive at a sufficient amount of proficiency to enable them to earn a livelihood when they came out?—I did; and that is true as regards handicrafts; but a boy is rendered very handy as a farm-servant, by his knowledge, for instance, of making bricks; and he would be useful from knowing a little of tailoring, and so forth; but I believe that none of those boys, or at any rate very few of them, would be able to earn their livelihood sitting on the shop-board.

701. Then it would follow that the degree of proficiency which they obtain in learning anything at Parkhurst, to enable them to get an honest livelihood when they go out, must be principally or almost entirely in agricultural employment?—Principally.

702. Lord *Naas.*] I think the returns show that of the number of boys who are sent out, very few find their way to agricultural labour; the greater number of them either go to sea, or are employed in mines or trades?—Those that I have mentioned to the Committee have gone to sea, and have been employed in mines; but those were chiefly boys who had no friends. I cannot quite answer the question.

703. You cannot tell the Committee what proportion of the boys who are discharged find their way to agricultural labour?—No, I cannot.

704. Mr. *Wickham.*] I thought that it had been the especial object of Parkhurst to teach these boys some trade by which they were to get their living when they were discharged from prison; that does not seem to have been the principal object from your evidence to-day?—It is an object, but they are not there sufficiently long to become proficient.

705. Have not a great many boys been sent there instead of being confined in the local prison, with the idea that they would be better instructed in their trade, whatever trade they were to follow, than they would have been elsewhere?—And I believe they are; but still I think that the time that they are at Parkhurst is not sufficiently long to make them good handicraftsmen.

706. Have not a great many boys had sentence of transportation passed upon them to enable them to be sent to Parkhurst to learn a trade?—I believe such is the case.

707. Still, notwithstanding that, they go away from Parkhurst before they have obtained a sufficient knowledge of that trade?—That is true.

708. Mr. *Deedes.*] I understand you to say, that in your opinion of the adults, you think about 80 per cent. on returning from punishment gain an honest livelihood, but only 70 per cent. of the juveniles?—I guess at those two numbers.

709. It is a mere guess?—A mere guess; as yet we have not obtained sufficient information to justify me in stating anything positive on the subject.

710. Mr. *B. Denison.*] These parties respecting whom you have been giving evidence, were all parties who were previously sentenced to transportation, because the Act has only been in operation two years; and therefore those who have been released by tickets of leave were previously sentenced to transportation?

Capt. *D. O'Brien.*

28 April 1856.

—All those who have been discharged with tickets of leave had been previously sentenced to transportation.

711. Were all the licences which have been granted within the last two years respecting which you have given evidence, licences to parties who were previously sentenced to transportation?—Entirely.

712. Therefore, the Act of 1853, as regards those who were sentenced to penal servitude, has not come practically into operation; at least you have had no evidence of the result of that Act. Have any persons received licences who have been sentenced under the Act of 1853?—I believe none.

713. Then, as I understand it, but I may be wrong, tickets of leave are not to be granted to parties who have been sentenced to penal servitude?—Such I understand to be the case.

714. Then is it true that tickets of leave are no longer to be granted to any persons?—According to the present regulation, tickets of leave are not to be granted to any persons except those who were sentenced to transportation before the last Act was passed.

715. Tickets of leave may still be granted to parties who are in England, under sentence of transportation; but no tickets of leave are to be granted to those who are in custody, sentenced to penal servitude?—Just so; but a sentence of transportation is also enacted by the late law.

716. Mr. *K. Seymer.*] Are we to understand that tickets of leave, according to the regulations which are now made, are to be granted only to persons who were under sentence of transportation in the year 1853?—Yes.

717. Mr. *Adderley.*] But no licence will be granted to any prisoner under sentence, either of transportation or of penal servitude, subsequent to 1853?—That is the regulation at present; of course, I cannot tell what the Government may do hereafter.

718. Mr. *B. Denison.*] If it be true that parties who are sentenced to penal servitude are not to have any tickets of leave until their sentences have been gone through, have you made any calculation of the number of tickets of leave that are likely to be issued per annum; such tickets of leave can of course only apply to those who have been previously sentenced to transportation?—An accurate return may be made of the number of persons who will, provided their conduct be good, be discharged with tickets of leave in this country.

719. *Chairman.*] Supposing the present regulations to continue in force?—Supposing the present regulations to continue in force.

720. Mr. *B. Denison.*] Would it be a difficult matter to ascertain what number of persons are likely, according to what has passed in the last three or four years, to be set at liberty in the country who have been in prison. A ticket of leave from this time forward, as I understand, will not be granted to any prisoner who has been sentenced to penal servitude; but then such a prisoner, after serving a certain number of years under his sentence, would come back upon the public. What I want to ascertain if I can is, what would be the probable number of persons who would annually come back upon the country who had been sentenced to penal servitude or sentenced to transportation?—I believe that a very close approximation might be furnished.

721. Lord *Naas.*] The boys who have been discharged from Parkhurst are boys who have been discharged purely in consequence of good conduct?—Those who have received tickets of leave have been discharged solely in consequence of good conduct.

722. That applies to by far the greater number of those persons of whom you have been speaking to the Committee?—Yes.

723. Do you think that their subsequent fate, and the information which can be given upon that subject, would afford to the Committee any precedent with regard to the effects of this system upon those persons who will be discharged indiscriminately after a year or two, if the system goes on in consequence of the expiration of their sentence?—I doubt it very much; I do not think that we shall be able to supply you with accurate information, or with any information which could be at all relied upon with respect to those who are discharged without tickets of leave.

724. Therefore you think that the information which you have given to the Committee, which is so satisfactory in many instances as to the subsequent conduct of these boys, cannot be quoted as a precedent as to what will be the effect of

of the system upon the great numbers which you will have in a short time to discharge from prison indiscriminately on the expiration of sentence?—I do not think it can.

725. That is a point which has been hitherto totally untried?—It is totally untried.

726. *Chairman.*] I think you mentioned that the prison at Brixton was one under your particular superintendence?—Yes.

727. To what species of convicts is the prison at Brixton appropriated?—To women who are sentenced to transportation, and women who are sentenced to penal servitude; I have brought with me the Brixton register, and glancing through the pages will enable any of the Committee to see at once the description of persons with whom we have to deal.

728. Will you just open it—(*The Witness did so*)—I see that the headings are: "Register Number, Pent Ward and Cell. Name and Trade. Age. Married or Single, and Number of Children. Read or Write. Convicted, when and where. Specific description of Crime. Sentence. Received from whence, and when. Previous Convictions. Places and Periods of separate or other Confinement since Conviction. Where. Months. Total of separate Confinement. Special Remarks, and account of Badges, Letters, Visits, &c. Pages in Misconduct Book, and Governor's Journal. Religion. When removed, and whither. Class, when removed." You endeavour to fill up those columns with respect to each of these persons, I suppose?—Yes.

729. What information are you now proposing to give to the Committee with regard to these convicts?—The numbers of female convicts with whom we shall have to deal within the next few years.

730. Have you any information in a tabular form of the numbers of these persons with whom, according to your calculation, you must deal within the next few years?—Yes.

731. Be so good as to state what that table is?—According to a calculation made some short time back, it was estimated that on the 1st of April 1856, that is to say, the 1st of the present month, there would be 884 to deal with. That corresponds as nearly as possible with the numbers now in the country sentenced to transportation, and to penal servitude. According to our calculations, they would be increased on the 1st January 1857, to 1,064; on the 1st of January 1858, to 1,372; and on the 1st of January 1859, to 1,432. This includes all women sentenced to transportation in England; Scotland provides for her own female convicts; such is not the case with regard to male convicts.

732. And no account is taken of Irish convicts there?—None whatever. I may say, that the number which Scotland would be supposed to supply is about 100 annually.

733. On what do you ground that calculation which you have made, that these increases will take place?—We have taken, in the first place, the numbers that were sentenced to transportation in the three years previous to making up this return. The increase is due to the supposition that the penal-servitude women will be detained in prison until the expiration of their sentences, and that the system which is pursued with regard to those women sentenced to transportation before the passing of the last Act shall be continued as it is at present. That system is, that a woman sentenced to seven years' transportation shall be released after three years' imprisonment; ten years' transportation, after four years' imprisonment, and so on.

734. What has been the number of females at Brixton to whom licences have been granted under the Act, into the operation of which we are now inquiring?—Two hundred and thirty-nine.

735. Mr. *B. Denison.*] Out of what number; what per-centage would that be?—I have not got the number; by far the greater number of the women who have done, as they call it, their prescribed time, receive their licences, and 239 of these women have so received licences since the passing of the Act.

736. Have any been revoked?—Seven only. But with respect to the revocations, the time has been so short, that I do not think the proportion of revocations to discharges with licence can convey any idea at all of their falling back into crime.

737. Lord *Naas.*] When was the first of these 239 women discharged?—About two years and a half ago.

Capt. *D. O'Brien.*

28 April 1856.

738. *Chairman.*] Are there peculiar difficulties with regard to the case of female convicts?—Yes. They may be divided into two classes; those who are very good, and those who are exceedingly bad; the majority are very good; the minority are very bad indeed, and they are very difficult to manage with respect to their tempers, and so on; and that leads one to the question as to the capability of their enduring lengthened periods of imprisonment.

739. What observations or information have you to bring before the Committee upon that subject?—I venture to mention this to the Committee, in consequence of the rule now being that women sentenced to penal servitude shall serve out their whole time. It is the opinion of the medical officer, of the superintendent, of the chaplain, and of myself, that they are incapable of going through that lengthened imprisonment.

740. Mr. *B. Denison.*] In what respect?—Chiefly through ill-health.

741. Physically?—Physically; I drew out a paper, which was sent to the Home-office.

742. *Chairman.*] Do you say that the medical officer concurred in it?—Yes; probably the Committee will allow me to read this paper.

743. What paper is that which you are proposing to read?—This is a paper drawn up by me, and forwarded to the Home-office, in consequence of a letter addressed to the Department by Sir George Grey, of the 11th April 1855.

744. Bearing upon this question?—Bearing upon this question. I stated, as a basis, "I have taken the first 400 female prisoners who were received into Brixton. Of these, 322 were, or have been, now above two years in prison since their last conviction, and 78 between one year and three months and two years. The majority were several months in Millbank before they were removed to Brixton, and all at least 10 months at Brixton. I have carefully, with the medical officer and with Miss Dyer, now deputy-superintendent of Millbank, and lately principal matron at Brixton, who knows them intimately, considered each woman's case" (that is, the case of each of these 400 women first received), "in respect of her crime, previous imprisonment, age, conduct in prison, disposition, and character. The state of each woman's health has been carefully looked into by the medical officer with the view to this report. The following has been the result:—We find the prisoners range themselves, as it were, in the four following divisions: 1st. The well-disposed; 2d. the badly-disposed, but cautious; 3d. The impetuous; 4th. The utterly bad and reckless. The 1st division consists of various ages above 20, who have either not been in prison before, or perhaps only once, have been inhabitants of country places, have been ill-used or deserted; who, in fact, are as deserving of pity as of punishment, and whose conduct in prison is exemplary: these women bear imprisonment without complaint, and are industrious; but in time they become depressed, and are disheartened under long confinement. They form 18 per cent. of the whole, and 24 per cent. of them are, through sickness, incapable of undergoing penal servitude for three years." Each case having been minutely gone into by the medical officer, myself and the deputy superintendent. "Keeping such women in prison for their full sentences, is surely unnecessary as regards improvement, and dangerous as regards health. The 2d division is composed of women usually above 24 years old; they come from large towns, have been often in prison, or if not, have been receivers of stolen goods, utterers of base coin, trainers of thieves and prostitutes, keepers of brothels, &c. They bear their imprisonment without much complaint, are frequently industrious, and always clean; they keep within the line of good conduct themselves, but frequently lead others into mischief. They form 46 per cent. of the whole; and 29 per cent. of them are, through sickness, incapable of undergoing penal servitude for three years. Keeping such women in prison for their full sentences would be desirable, as they are totally undeserving of pity; but then it is doubtful whether they make any appreciable approach towards reformation; and when it appears that so large a proportion as 29 per cent. have alread lost their health, it would seem unwise to insist upon the full period of their servitude being exacted from them. Besides, if a diminution of time be accorded to one class, it would be a denial of justice to exact the full time from another, unless brought about by misconduct after conviction. The 3d division consists of women who are impetuous; with violent passions, not absolutely bad, but very difficult to restrain or manage, though susceptible of kindness; capable of committing any outrage, but who will rescue a favourite officer at any personal risk if attacked by others, provided the quarrel be one in which they themselves

Capt. *D. O'Brien.*

28 April 1856.

are not mixed; their ages are from 17 to 25; they are almost all from large towns, and have been prostitutes; many of them have seen good days, and have had kind parents, whom they left for profligate purposes. They are generally idle, and frequently indolent; few of them even know how to thread a needle, though here and there among them are found individuals who excel in fancy-work. These women do best in separation, because when associated they encourage each other in all species of irregularities. It is essential to their well-being that their minds should be kept as evenly-balanced as possible; they thrive only in quiet; punishment, when often repeated, tends to harden them; but encouragement is necessary to train them to industry. With them the badge system answers admirably; they are much influenced in their conduct by the contemplation of what may be in prospect on receiving their discharge, and they dwell on this subject more even than on the length of their imprisonment; they sometimes say 'What is the use of our leaving prison, when we shall be obliged to do what we have done?' And they sit desponding in their cells till they almost lose their reason; when in this condition, a feeling of recklessness, amounting to despair, comes over them, and they will smash their windows and destroy their cell furniture under its influence. They form 25 per cent. of the female convicts, and 24 per cent. of them are not in a condition to bear three years' imprisonment; there is always a fear that women in this division may descend into a lower one, and become incorrigible, while at the same time there is a hope, which is occasionally fulfilled, that they may become reformed. After what has been said of these convicts, it is evident that the prospect of release before the termination of their sentences is very essential; more so than with any others. The last division consists of those who are utterly vicious; they are between 16 and 20 years of age, and a few between 50 and 60, who have been continually in and out of prison; they are neither industrious nor clean, and their conduct is invariably bad. They are reckless as to the length of their imprisonment, and they ought to receive the whole of it, if only that others should be deterred from following their examples. They form 11 per cent. of the entire number, and 27 per cent. of them are unable to bear three years' imprisonment. I have tabulated the foregoing observations as to numbers and health, as follows:

DIVISION.	Per Cent. of Total Numbers.	Per Cent. of Sick in each Division.
1st	18	24
2d	46	29
3d	25	24
4th	11	27

Since I drew up the above table, I have received a letter from Mr. Rendle, to the effect, that having corrected the first list of 400 women, he finds prisoners in

delicate health	103
Deaths	5
Total	108

Now here we have just 27 per cent. of the whole already pronounced incapable of undergoing above three years (for such Mr. Rendle means by 'delicate'); and when it is remembered, as I have before shown, that a great many of the 400 are far from having completed their three years in imprisonment, what would be the results if the whole number sentenced to penal servitude of four, six, eight, ten years, were ordered to be imprisoned their full time? 1st. A quarter of the whole would be discharged on medical grounds before the expiration of their respective sentences; 2d. Another quarter would be so broken down as to be unfit to support themselves when discharged; 3d. The punishment would depend upon the physical capacity of the woman to bear it; 4th. Feigned illness would be resorted to extensively; 5th. Many of the prisoners in the second and third

Capt. *D. O'Brien.*

28 April 1856.

divisions would descend into the lowest division, which would be best represented by a den of wild beasts."

745. Was that report one in which yourself and all the other gentlemen, whose names you have mentioned, concurred?—Yes.

746. And it was sent as the opinion of you all to the Home Office, was it?—It was; if necessary, I could produce the medical officer's report for this year on the same subject.

747. That medical officer being one of the gentlemen who concurred in this report?—Yes.

748. Have you any further information to give the Committee relating to the system at Brixton which you think it advisable for them to have?—With regard to gratuities, the gratuities have been granted in somewhat of a different mode from the others; the gratuities are not so large, and it has been desirable to give them in different proportions; a woman on her discharge would receive at the outside a post-office order for 2*l.*; that would be supposed to keep her for two months; if she was entitled to 2*l.* more, she would receive that additional 2*l.* at the end of two months; if she was entitled to a larger sum, then she would receive the balance by post-office order at the end of an additional two months; in each case a certificate of good conduct and well-doing being required from the clergyman of the parish where she went, or a magistrate, or some person of equal respectability, vouching for her being well-conducted. I should add, that as it is very material that these women's characters should not be damaged by saying publicly that they have been convicts, the chaplain has volunteered to communicate with the party who is referred to, telling him that a certain woman, say A. or B., will call upon him at a particular time, if he will be good enough to keep her name and the object of her visit secret, and then to send forward the proper testimony of her respectability.

749. Have you any information with regard to the subsequent conduct of those who have been released on licences?—I have, and I am sorry to say that it is very bad. I believe that a great many of these women, especially the older ones, will sooner or later find their way back to imprisonment. It is evident that they are differently circumstanced altogether from males. Most of these women have been prostitutes, and when they want money they go upon the streets, and fall back, if they choose it, upon their old lives, and at once money is put into their pockets. I have it as a fact that there are some persons, keepers of low lodging-houses, who take in these women who have tickets of leave, for a short time, and when the second instalment of their gratuity comes to be paid, they seize it, and turn the woman out of doors. She has no refuge, no place to go to, no means of getting a livelihood, but by walking the streets, and being a prostitute. That is the case with too many of them. It is a great pity that there are not some means of sending these women out of the country by emigration.

750. Do you mean under a system of transportation?—No; I think a system of transportation never will do for women. There was a question of sending some of these women as transports to Western Australia, but that has not taken place, and I am very glad of it. I conceive that the worst thing which can happen to a colony is having a number of these female convicts sent out to it; they are mothers of the rising generation, and I am perfectly convinced, after reading a good deal upon the subject, and thinking a good deal upon the subject, that the great demoralisation of New South Wales and Van Diemen's Land arose far more in respect of the mothers than of the fathers of the colonists.

751. Lord *Naas.*] What are you to do with them; you speak of sending them out; where would you send them to?—I do not speak of their being sent as transports, but I speak of assistance being given to them to emigrate when their imprisonment is over. I am sure that the younger ones, so long as they remain in this country, will sooner or later, for the most part, at least, go back upon the streets, and do that which they have been doing before; and I should be very glad if anything could save them from such a fate. With regard to the older ones, it would be very undesirable to send them abroad as emigrants; they would make bad emigrants. They must be kept at home; though I have no doubt they will return to their former lives, and many of them will probably end their days in prison.

752. Have you given your attention to the mode in which this system of emigration for female convicts could be carried on?—I cannot see that there would be any difficulty in emigrating these women, provided they are not over 30 years

of

of age, and are capable of earning their livelihood, and provided their conduct is good in prison. I do not see why certain agencies should not be established in the ports from whence emigrants proceed; and I do not see why they should not glide into the stream of female emigration. They would then arrive in the colony, not with the brand of transportation upon them, but as ordinary emigrants; and I do not see why they should not do as well as ordinary emigrants.

753. But do not you think there would be as great an objection on the part of the colony to take these women, under the form of emigrants, as under the form of convicts, if it was known that they were sent out with the authority of the State?—I do not think there would, because the numbers would be so few. If you deal with a few hundreds in a year, you deal with that which is manageable: but if you deal with thousands, you deal with that which is not manageable. We know very well that at present the different reformatories deal with a great many males who do go out, and nothing is said about it. I do not see why the females should not go out in the same way.

754. Mr. *Adderley*.] Have you ever turned your attention to such emigration as you have now suggested being managed by the voluntary agency of benevolent persons, instead of by Government, so as to avoid any offence being given?—I have turned my attention to that subject. I have reason to believe that something like a *Société de Patronage* will be formed in this country, and I have no doubt that it will be a portion of their self-imposed duty to provide something in the nature of emigration for those persons who ought to be emigrated. Whether Government should interfere, and Government should pay a sum of money to those agents for sending out these women, who have come under the operation of the law, is a question for the Government to decide. For my part, I do not see why they should not. I am satisfied that the money would be well spent, and I have no reason to believe that the colonies would object to it.

755. Lord *Naas*.] If a society of this kind were established purely for sending out convict women to the colonies, do not you think that they would be recognized on arriving in the colony just as easily as if they were sent out by the Government?—I think that a great many of them would be recognized, but I do not think it would interfere with their after-life; I think they would glide into the large stream of emigrating women. Of course individuals would be known here and there, but then all they have to do is, to change their locality. Mary Jones, sentenced to transportation as a convict, would not be recognized as Mary Jones, who might be hired as a servant 20 miles from the place where she landed.

756. What proportion of women of the whole number of convicts do you think would be eligible for such a society to deal with?—I cannot give you an accurate idea, because I have had no communication upon that subject.

757. You said that you thought there would be a very small number?—I think there would be a small number, because I would confine the emigration to women who are under 30 years of age, who are capable of earning their bread, and who receive good characters from the prison where they have been.

758. That would hardly be a greater proportion than the first class of 18 per cent. to whom you alluded as the best class of women now in prison?—I should say, that it would not exceed 50 per cent.; but it is a guess rather than an estimate.

759. Then the large number who remained would be still subject to all the disadvantages to which they are subject under the present system?—Yes.

760. Reformation of a female convict at home is almost impossible, I suppose, from the circumstances which attend her discharge under the present system?—I fear it is; everything depends upon the hands which she gets into after she is discharged.

761. The difficulty, I suppose, of procuring employment for a female convict, is far greater than it would be either for a boy or for an adult male?—Far greater; women are not hired unless they have characters to produce, and a woman producing a character from a prison is not likely to be hired; I am quite aware that there are several establishments in the country for the reception of prisoners; there is one at Wakefield, which is very successful, but there has been as yet no establishment formed for the reception of convicts; the women that we are speaking of have been convicted over and over again; and I very much doubt whether respectable persons will take women who have been convicted over and over again into their houses, and employ them as servants in their families. What remains, then, for these women to do? They become servants in disreputable

Capt. *D. O'Brien.*

28 April 1856.

places; they become servants in brothels; in places where stolen goods are received; in places where there is vice and poverty; where there is all that is immoral.

762. Do you then believe, that the cessation of transportation created a great additional difficulty with regard to these women?—An immense difficulty; it created all the difficulty; I do not think that the old system of transportation of women was good; indeed I have said that it was not; and I believe that the injuries done to the colony were excessive; but the relief afforded to the mother country was in proportion.

763. Supposing a place could be found to which these women could be sent, do you think that any modified system of transportation could be invented which would hold out greater opportunities of reformation than the old system did?—I think not, for this reason: a woman must go out without a stigma on her character, or else she goes out as branded; I think the brand of transportation is fatal to her when she arrives, and, as I have said, I think it fatal to the colony afterwards, if numbers are sent.

764. Still she would not be subject in a colony to be returned to these nests of infamy and crime in the same way as she is in this country?—Certainly not.

765. She would escape that portion of her danger?—She would.

766. Mr. *B. Denison.*] At present, the rule is not to transport them at all?—Exactly so.

767. The colonies object to the women as much as to the men?—Yes.

768. Supposing that one of these societies were established, do you think that it could be established without its being publicly known that it was established, and that it was part of its object that after a certain time it should take some means or another by which it could send out these unfortunate women to some colony?—I have no doubt that such information would ooze out, but I do not think it would be to such an extent as materially to interfere with the course of emigration.

769. Supposing that you had half a dozen, or half a score women whom you wanted to send out to any one of these colonies, how could you get those women out in an emigrant ship without its being known to the other emigrants that they had been women of bad character, and how could you get them landed and put into occupation without its also being known that they had been of bad character?—It would undoubtedly be known to some extent, perhaps to a considerable extent; but considering the class of people who go out, I do not know, and I do not think that the people on board would hold themselves altogether aloof from them.

770. Do you believe that half a dozen or half a score women of that description could be sent out in an emigrant ship, without something or other about their previous character being known to the emigrants on board that ship?—I think not; but I think that the other emigrants would not care very much about it.

771. Do you think that the other emigrants would allow a lot of women of that sort to go out, without making some complaint of their feelings being outraged, and perhaps in the end publishing it when they got to their place of debarkation?—I do not think they would be likely to say anything about it on their landing, unless some personal quarrels on board led to their promulgating the facts in the colony through spite.

772. A society of that description might, if they thought proper, find abundance of women unfortunately who had served their whole time, and who were therefore liberated by process of law, and to whom it would be a great act of charity to take them in hand and send them out; so that, at all events, they would not go out literally as convicts; but the question would be whether they could go out without their previous characters being known?—I think it is quite practicable, as the numbers would be so few in comparison to the whole number who emigrate; but it would require to be judiciously managed, no doubt.

773. At all events nobody would have a right to interfere with the acts and deeds of such a society, provided the parties had served their time in prison?—Just so.

774. Mr. *Adderley.*] I presume that in such a system as you are now talking of, the emigration would not be directed to colonies particularly, but the emigration would be to any country?—I should question the propriety of systematically sending out these bad women to foreign countries not colonies; which might raise awkward international questions.

775. Why

775. Why do you particularly direct such a boon to the English colonies?—I do not look upon it as a boon to the colonies, but I look upon it, first of all, as the best way of getting rid of women who, in after-life, would be a pest to society here; secondly, I think it a boon to the women themselves, being saved from the life which I have endeavoured to describe; and thirdly, I do not think that any great injury could be inflicted upon the colony by these women being sent out in the small numbers which I think would be sent. Capt. *D. O'Brien.* 28 April 1856.

776. I do not see how any one of those reasons would particularly direct such a system of emigration to a colony in preference to any other country; would not your object be equally well met if the voluntary agency was directed to sending these women to any other country where they might have a new life open to them?—Before that was done, I think it would be necessary to get the consent of the foreign country to the system.

777. I understood your proposition to be, that this system was not in any way to be conducted by Government, but simply by the benevolence of voluntary subscribers; in that case, what necessity would there be for any such independent individuals negotiating with the government of any country to which they were sending out emigrants?—None whatever.

778. Would not the chief merit of your plan be, that it would not implicate our Government or our country in any way with the government or country to which such women might be sent?—I do not think it would; but my observation was directed to the fact of emigration of this description being sanctioned by the Government, or the Government being a party to it.

779. Are you aware that such voluntary agency as you have now suggested is much more largely made use of by other countries in Europe than by England?—I do not know the facts sufficiently to enable me to form a reasonable conclusion.

780. Would such a system as you have now suggested be equally applicable to male convicts as to female?—I think not.

Jovis, 1° die Maii, 1856.

MEMBERS PRESENT.

Mr. Baines.	Mr. John Wynne.
Sir John Pakington.	Mr. Massey.
Lord Naas.	Mr. Beckett Denison.
Mr. Adderley.	Mr. Deedes.
Mr. Serjeant O'Brien.	Mr. Monckton Milnes.
Mr. Wickham.	Mr. Ker Seymer.

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Captain *Donatus O'Brien,* called in; and further Examined.

781. *Chairman.*] IS there any information which you wish to give the Committee in addition to that which you gave them when you were last here?—Yes. Capt. *D. O'Brien.* 1 May 1856.

782. Be so good as to state what it is?—I wish to tell the Committee that female convicts are sent in the first instance to Millbank Prison in a state of probation, before they are sent on to Brixton; and it is intended that after passing through Brixton Prison they shall go on to an establishment at Fulham, which is now ready to receive them; the whole arrangement is detailed in a notice to female convicts, sanctioned by the Secretary of State, which I hold in my hand.

783. Will you read it?—

[*The Witness read the same, as follows:*]

Capt. *D. O'Brien.*

1 May 1856.

NOTICE TO FEMALE CONVICTS.

Transportation for certain offences having been abolished by Act of Parliament, and certain periods of imprisonment of much shorter duration, under the term "Penal Servitude," having been substituted in place of the sentences of seven and ten years' transportation, which had been usually awarded, no remission, as a general rule, of any part of the term of penal servitude will be granted; the period of detention in place of a longer sentence of transportation having been settled by law. The Secretary of State will, however, be prepared to consider the case of any prisoner whose conduct may be the subject of special recommendation. The Secretary of State is also desirous, as a general rule, of holding out encouragement to good conduct by establishing successive stages of discipline, to each of which some special privileges will be attached.

Prisoners of good conduct, and maintaining a character for willing industry, will, by this rule, be enabled, after certain fixed periods, to obtain the higher stages, and gain the privileges attached to them.

For the present, and until further orders, the following rules will be observed:—

The first stage of penal discipline will be carried out at Millbank Prison, where two classes will be established; viz., the probation class, and the third class.

The second stage of discipline will be carried out at Brixton, where the prisoners will be divided into the first, second, and third classes.

The third stage of discipline and industrial training prior to discharge will be carried out at Burlington House, Fulham, for those prisoners who, by their exemplary conduct in the first and second stages, appear deserving of being removed to that establishment.

Captain *O'Brien.*] Millbank Prison under this arrangement holds from 180 to 200 female convicts; Brixton holds about 640; Fulham probably will hold about 200; the accommodation at present at Fulham, I believe, does not extend to beyond 50, but that accommodation will be increased till it amounts to about the number that I mention.

784. Does every female convict, according to the present arrangement, go in the first instance to Millbank?—Yes.

785. Then to Brixton?—Then to Brixton.

786. And ultimately it is intended that she shall go to Fulham?—If her conduct be exemplary.

787. How is that Fulham Institution supported?—By Government.

788. How long has it existed?—It has only just come into existence; I am now preparing a list of the first female convicts to be draughted there, and they will be sent in a few days.

789. None, then, have yet gone?—Not yet.

790. For how many do you intend that it shall be calculated?—Much will depend upon the number of female convicts who ought to be sent there; that is to say, whose conduct in their earlier stages will have been sufficiently good to enable them to go to Fulham, which will be rather in the nature of a refuge than of a prison.

791. Is there any other point to which you wish to draw our attention?—Nothing.

792. Lord *Naas.*] What is the nature of the discipline which is proposed to be carried on at Fulham?—It will be much more lenient than that which exists at Brixton.

793. Is it to be conducted on the principle of association or of separation?—Of association.

794. Are the prisoners to be taught anything in the way of a trade or needlework?—Yes; the usual trades and occupations that a refuge can supply; the better descriptions of needlework and washing. I cannot go into detail, because the establishment has not yet come into existence.

795. Will the diet be on a more generous scale than at Brixton?—Yes; as the female convicts progress in the way that I have mentioned, the diet improves, and the discipline is gradually relaxed to those whose conduct is good.

796. Will there be any means at Fulham for exercise in the open air?—Considerable.

797. Are there large grounds attached?—The grounds are large and commodious.

798. Sir *J. Pakington.*] Who drew up this paper which you have read?—Who actually drew it up I do not know, but it was submitted to the Secretary of State, Sir George Grey, who approved of it.

799. Is

799. Is it issued by the authority of the Secretary of State?—Yes.

800. I find in this paper these words: "For the present and until further orders, the following rules will be observed: The first stage of penal discipline will be carried out at Millbank Prison, where two classes will be established; viz., the probation class and the third class." I wish to ask you, first of all, what period of time do these two stages at Millbank occupy; is it fixed, or does it vary?—It is fixed; the first occupies four months; the second occupies six months; it is fixed as to the probation; not fixed as to the other class, because the female convict in the other class, if she conducts herself improperly, is likely to be sent back into the probation class.

801. Do you name six months as the maximum of the second period?—Six months is the minimum.

802. That is to say, every female prisoner will be detained at Millbank the minimum period of 10 months; four in the first class, and six in the second?—Yes. I have a notice to the female convicts in Millbank Prison, which contains the information that you desire. If you will permit me, I will put it in.

803. Will you read it?—

[*The Witness read the same, as follows:*]

NOTICE TO FEMALE CONVICTS.

Millbank Probation Class.

1. All prisoners, on reception, will be placed in the probation class in ordinary cases for a period of four months, and, in special cases, for a longer period, according to their conduct.

2. The strictest silence will be enforced with prisoners in this class on all occasions, and they will be occupied in picking coir, until, by their industry and good conduct, they may appear deserving of other employment.

3. No prisoner in the probation class will be allowed to receive a visit.

4. Every prisoner having passed through the probation class is liable to be sent back thereto, and recommence the period of probation, upon the recommendation of the governor, and with the sanction of a director.

5. On leaving the probation class the prisoners will be received into the third class.

Discipline of the Third Class.

6. No prisoner will be allowed to receive a visit until she has been well-conducted for the space of two months in the third class.

7. The strictest silence will be enforced with prisoners in this class on all occasions.

8. Prisoners, whose conduct has been exemplary in the third class for a period of six months, will be eligible for removal to Brixton when vacancies occur.

804. I understand from that statement, that the period of four months and the period of six months are both minimum periods?—Yes.

805. Is there any limit to the extent to which those periods might be prolonged, in the case of bad conduct?—Bad conduct would keep them in those classes so long as they remained in the prison.

806. During both those periods, is or is not the woman in separate confinement?—During the period of probation she is in separate confinement; during the next period she is not necessarily in probation, though a portion of her time may be in probation; that arises from the construction of Millbank Prison. The part of the prison these women occupy consists of three floors; the two lower floors have separate cells in them, the upper floor has large cells, and when it is necessary to fill that part of the prison with female convicts, those who occupy the upper floor are not in separation; they are two, or three, or four, as the case may be, in each large cell; prisoners are selected for the upper floor in respect of time and good conduct combined.

807. I presume I may understand from what you say, that the first period, the probationary period, is always in separate confinement, and that the second period is or is not in separate confinement according to circumstances?—Yes.

Capt. *D. O'Brien.*

1 May 1856.

808. Those circumstances mainly depending upon the conduct of the woman?—Yes.

809. Is the confinement at Brixton in separate cells?—No; for the most part in association; Brixton Prison consists of the old part of the prison, which existed several years ago before we had anything to say to it, and a new part of the prison built under the superintendence of Colonel Jebb. The old portion of the prison consists of 175 separate cells; the new portion of the prison consists of two wings, each capable of holding about 210 prisoners. The wings consist of long corridors with small cells off them on either side, separated from each other by corrugated iron, and in four stages. Some of the women in Brixton are placed in the separate cells when their conduct is not good. The greater portion of the women occupy the large wings, where they are associated, and must be associated, from the description which I have endeavoured to give of the construction of those wings.

810. Can you say, what proportion of the women at Brixton are in separate confinement, and what proportion are in association?—By the last return, which I hold in my hand, of the actual numbers, there were in the east wing 199 prisoners in association; in the west wing, 203 prisoners in association; in the old prison cells which I have described, there were 97 in separation.

811. Separation or not turns upon conduct?—It turns upon conduct.

812. What does association mean in that case; how many are together?—The cell doors are left open, and women sit at work at their cell doors; they sit in the door-ways, separated from each other by about four or five feet, the width of each cell, in fact.

813. Are they allowed to converse?—Yes, they are allowed to converse, provided there is no improper or loud talking.

814. Then am I to understand you, that the wings in which association exists are architecturally the same as the wings in which separate confinement is carried on?—No.

815. What is the difference?—They are separated from each other by corrugated iron.

816. What is architecturally the difference between the separate confinement wings and the associated wings?—All the prisoners in the wings are associated, but there is the difference between the prisoners in the wings and the prisoners in the old cells, that the prisoners in the old cells are separated from each other by brickwork, and the arrangements are such, that they cannot talk to each other; whereas in the wings they are closer together; the doors are left open for the most part of the day, and they are not forbidden to speak to each other, provided they talk quietly and decently.

817. Can they converse with each other when the doors are closed?—They can, and they sometimes do; but it is deemed an offence to do so.

818. I understand you to mean that the separation between the cells being of corrugated iron, sound might pass from one cell to the other?—Yes.

819. But still in each cell there is only room for one woman?—Just so.

820. How many women are sitting in this way at the doors of their cells in one wing; is there any separation into different apartments in one wing?—No.

821. How many would be in one wing?—Two hundred and ten, when full.

822. That would embrace all the floors, I suppose?—Four floors.

823. What is the occupation of the women in Brixton Prison?—For the most part, needlework; in addition to that, washing; they wash for Millbank Prison and for Pentonville Prison, as well as for themselves.

824. What exercise are they allowed?—Prisoners in the third class get an hour's exercise in the day; in the second class, they are allowed to exercise for an hour and a half every day; in both cases, when the weather permits.

825. Lord *Naas.*] Do they walk together?—In the second and third classes they are allowed to exercise in pairs.

826. Sir *J. Pakington.*] What is the exercising ground; an open yard?—A large yard, surrounded by the buildings of the prison.

827. With respect to the new establishment at Fulham, what is the building; is it a building newly erected, or is it a house that has been purchased?—I cannot give you so much information about it as Colonel Jebb, because he has been looking at it daily. I have only been there once. Colonel Jebb will give you every information; it is now under him, and under him solely.

828. It

828. It is not yet occupied?—It is not yet occupied; but it will be occupied in a few days.

829. I understand you to say that any details connected with that building, in any way, the Committee had better ascertain from Colonel Jebb?—If you please.

830. Does the period, consisting of two parts, which is passed by female convicts at Millbank, vary according to the length of the whole sentence?—No.

831. The period at Millbank, then, would be the same, whether the sentence of transportation, for instance, were 7, or 10, or 15 years?—It would.

832. What is the length of the period passed at Brixton; is it fixed, or does it vary?—It will vary as soon as the establishment at Fulham is opened, but to what extent I am unable to tell you.

833. Then has it hitherto been the practice that women, on their arrival at Brixton, have been kept there to the end of the whole sentence of penal servitude?—They have been kept there till their liberation on licence.

834. Under the former law of transportation, has it been the practice to send women abroad?—Yes.

835. Always?—Always, except those who were invalids.

836. I wish to revert for a moment to your evidence on Monday about Parkhurst; Parkhurst, I think, is immediately under your care?—Yes.

837. Hitherto, I believe, up to a very recent period, Parkhurst has been reserved exclusively for boys sentenced to transportation?—Yes.

838. To what extent is that rule now modified?—Prisoners sentenced to one year, and between one year and two years, may be sent there by direction of the Secretary of State. At present, there are 38 prisoners of that description in Parkhurst.

839. When was that rule made?—Within the last year.

840. Then I understand you to say this, in fact, that the rule with regard to transportation is relaxed, and so far relaxed, that the rule with regard to penal servitude no longer applies; but that the boys sentenced to imprisonment are now sent to Parkhurst, provided the sentence is not for a shorter period than one year?—It is so.

841. Are the boys who are sent to Parkhurst under sentence of imprisonment, kept distinct from the boys who are sent there under sentences either of transportation or of penal servitude?—No, they are not; no distinction is made between them in any respect.

842. Mr. *B. Denison.*] Are the ages of female prisoners recorded, as well as those of male prisoners?—They are.

843. Have you many female prisoners under 15 or 16?—Not many; but some.

844. Can you tell from experience whether the number is increasing with respect to the younger age or not?—I do not know.

845. Is the average age of the female prisoners younger or older than that of the male prisoners?—That I cannot tell; I have not compared the two.

846. Would you think from your experience that it was more easy to reform females or males?—Males, beyond a doubt.

847. Will you tell the Committee why you have formed that opinion?—I think the difficulties of reformation with the women who are in the stage of sentence to transportation, or penal servitude, arise from the circumstances in which they are placed when they get out of prison. The difficulties which they have in getting an honest livelihood prevent them from becoming eventually decent and proper members of society; but as to the extent of reformation which takes place in the prison itself, I really have not had sufficient experience, nor do I know that anybody has had, to form a reasonable opinion upon the subject.

848. *Chairman.*] What you mean is, that the danger of relapse is greater, in your opinion, in the one case than in the other?—Yes.

849. Mr. *B. Denison.*] Is there any means of ascertaining whether the female prisoners have led an immoral life before they became subject to the penalties of the law, or whether they have been connected with thieves before they led an immoral life?—That information is chiefly obtained from the prisoner herself; her information, generally speaking, is true; the greater proportion of these women have been leading an immoral life; they have almost all been prostitutes.

850. Before they became thieves?—Yes.

 851. Does

Capt D. O'Brien.

1 May 1856.

851. Does not that circumstance of their having led an immoral life in the first instance very much increase the difficulty of general reformation afterwards?—Very much so; a woman who has been once a prostitute has not the slightest hesitation in going back to her trade; there is nothing to restrain her.

852. Therefore, if she does go back, it is probable that she will go back to an immoral life, as well as to an illegal life?—Certainly.

853. Lord *Naas.*] Do you find great difficulty in extending the period of probation which you speak of to women of bad conduct, on account of their health?—No; the probation is so short, being only four months, that as yet I have not heard of any cases of women suffering, at least to any extent, from the probation which they had to undergo.

854. *Chairman.*] You spoke just now of the establishment at Fulham as one which was intended to provide a refuge for those women after they left Brixton?—Yes.

855. Are there, in point of fact, any institutions now open which act as refuges for women of this description?—There are some which have kindly taken these convicts upon the recommendation of the chaplain, Mr. Moran.

856. Are all those institutions supported by voluntary contributions?—Entirely.

857. What are they?—There is the "Elizabeth Fry" refuge for one, and there are others which I have heard of, but do not at this moment remember their names.

858. There are several?—Yes.

859. Are they increasing in number or falling off?—I have no information on the subject.

860. Mr. *B. Denison.*] You stated the other day, with respect to male convicts, that 12 per cent. had positively relapsed, and that you allowed 8 per cent. for those of whom you knew nothing, and that therefore you put down 80 per cent. as reformed?—Yes.

861. How would you apply those per-centages to women, as regards reformation?—No person can give any reasonable opinion upon the subject; it would be absolutely impossible to do so now.

862. You have no proof?—We have no proof; no one can tell; there has not been a sufficient time to form any opinion on the subject.

Captain *Irwine S. Whitty*, called in; and Examined.

Capt. I. S. Whitty.

863. *Chairman.*] WHAT office do you hold?—I am one of the Directors of Convict Prisons.

864. What class of prisons are under your charge?—The prisons for public works and for invalids; adult males.

865. Which are the prisons for public works?—Portland, Portsmouth, two hulks at Woolwich, and partly Dartmoor.

866. And which for the invalids?—The other part of Dartmoor, and the "Stirling Castle" hulk at Portsmouth.

867. Can you state to the Committee the amount of accommodation in each of those prisons; the number of inmates which can be placed in it?—Portland, 1,520; Portsmouth, 1,020; Dartmoor, for able-bodied men, 572; the hulk "Defence," at Woolwich, 528; and the hulk "Warrior," at Woolwich, 450.

868. What is the amount of accommodation for invalids?—Part of Dartmoor, 628, and the "Stirling Castle" hulk, at Portsmouth, 420.

869. You are aware of the object of the inquiry of this Committee into the operation of the Act of Parliament under which licences or tickets-of-leave are granted?—Yes.

870. Can you give the Committee any information with regard to that subject?—Convicts are recommended for licences at a period of their sentence of transportation, which is regulated by instructions from the Secretary of State.

871. Are those the same instructions which we have already had given in evidence?—I think not.

872. Have you got them now before you; are they in writing?—I can very simply state them. The earliest period at which a seven-years' man is recommended

mended for licence is three years; a man under sentence to 10 years' transportation, at four years; a man under sentence of 14 years' transportation, at six years; a man under sentence of 15 years, at 6½; under sentence for 20 years, at eight; and with respect to those men who are under sentence for life, each case is to be considered upon its own merits, but none brought forward under 10 years.

873. Are those periods calculated from the date of the sentence?—From the date of the sentence; those are the earliest periods at which a man can be brought forward.

874. So that each of these periods comprises within itself the imprisonment in the first instance at the prisons spoken to by Captain O'Brien, and then the period on public works?—Yes. None but prisoners of exemplary conduct in prison are brought forward at the minimum periods; the others are brought forward at some subsequent period, according to their recorded character in the prison.

875. Is great care taken with regard to recording the characters of the prisoners?—Great care is taken; the men are both classified, and have also badges on their arms, which denote their conduct and their progress towards the period of license. The prisoners, who are received on public works, from separate confinement, in the second class, are required to perform three months longer on public works, unless from subsequent good conduct a part of that period is remitted. A man received in the third class, from separate confinement, is required to perform six months longer with the same exception. A further detention may also fall upon any man for his misconduct on the public works.

876. What is the nature of the employments on the public works?—They are different at different places. At Portland it is almost entirely quarrying stone, and different trades which are connected with keeping the tools in order for that employment. At Portsmouth, it is altogether dockyard labour, except in the case of some men who are employed under the engineer department at a distance from the dockyard, in carting, and wheeling, and building, and making roads. At Dartmoor, it is chiefly agricultural labour. At Woolwich, it is also Dockyard and Arsenal labour, of the kind of work which is going on there with ordinary labourers.

877. Is the system intended to be equally laborious for all the prisoners, or are there differences in that respect?—It is equally laborious generally, but the medical officer, if he finds any particular kind of labour too laborious for a prisoner, puts him to some lighter kind of labour. For instance, at Portland and the other places we have generally a stone-breaking party; if a man is not sufficently strong for active work, or if he is temporarily convalescent, he is put to break stones, saw stone, or some such work out of doors, in place of the common quarrying or other hand labour.

878. Probably regard would be had to his former occupation?—The former occupation is made available as far as it can be for the labour of the prison; for instance, blacksmiths are placed, as far as they can be, at smith's work; as regards their carpenters the same.

879. What is the mode of proceeding adopted with regard to the granting of these letters of license when the time has come; just describe to the Committee what is done?—At the beginning of the month, before a man would be entitled according to the rules to his recommendation, a list is sent in to the office, in Parliament-street, showing all the particulars of this man's sentence, his crime, and his conduct in prison; a paper is also sent in for each man, showing what his prospects are when about to be liberated.

880. How do you obtain your information with regard to that?—The chaplains of the different prisons receive from each prisoner, in sufficient time to enable them to acquire this information, a statement of what he has himself to expect when he leaves the prison. These particulars are taken down, and a certain form is sent to the clergyman of the parish in which this man's friends, whom he proposes to assist him, reside, and upon the answers which are received a conclusion is come to, which is sent in to the Directors' Office in Parliament-street.

881. Will you go on from that point?—As soon as those papers can be examined in Parliament-street, they are forwarded to the Home Office for the consideration of the Secretary of State, and in due time the licences are issued

Capt. *I. S. Whitty.*

1 May 1856.

from there, and the men are discharged in small parties from the different prisons.

882. Are the papers sent with a recommendation from the office in Parliament-street, or is it merely for the purpose of examination there on their way to the Home Office?—They are passed on as recommendations from there.

883. Then they go to the Home Office?—They then go to the Home Office, and the next that we hear of them is the issue of the licences; they are sent to us at Parliament-street, and distributed to the different prisons. The original licence comes to Parliament-street; a parchment copy of it is made there, and signed by Colonel Jebb as a true copy, and forwarded to the prison, to be issued, that the man may be discharged.

884. Who is in possession of the original?—The original remains in Parliament-street.

885. The one signed by the Secretary of State?—Yes, the parchment copy is signed and certified by Colonel Jebb, together with a smaller parchment certificate, stating the prisoner's conduct while in prison.

886. Then the instrument given to the man is a copy of that signed by the Secretary of State, with the addition of a counter-signature, as it were, by Colonel Jebb?—Yes.

887. And upon that he is released?—Upon that the man is released.

888. Where is he sent to?—He is sent from the prison to the nearest railway station under the charge of an officer, who there pays his travelling expenses, as far as that railway company will receive them, to the place of the man's destination: he is furnished also with a post-office order for the first instalment of the gratuity of earnings, which he has acquired during the time of his being in prison; that post-office order being payable at the place of his destination.

889. You have been referring to the class of cases where you have information with regard to a prisoner having friends at a particular place; is there not also a class of cases where there are no friends?—A very considerable class.

890. How do you proceed in those cases?—They are discharged at the same time; it causes no detention in their case.

891. Where would those persons be set at liberty?—They could be sent to the places of their conviction generally.

892. Do you send an officer with them to the place of their conviction?—No; they are taken to the nearest railway station, and from there despatched.

893. With the fare paid to that place?—The fare is paid, as far as possible, to the place of their destination.

894. Are gratuities given to them on their discharge?—A man takes part of his gratuity by a post-office order, payable at the place to which he is destined to go.

895. You heard the evidence of Captain O'Brien upon the subject of these gratuities, and you agree that that is a correct statement?—Yes, he read the paper which I have here.

896. Have you anything to add upon that subject to the evidence given by him?—As to the mode in which these earnings are allotted to the men in the prison, the earnings are allotted to them, both upon character and upon industry. All prisoners on public works are divided into three classes, first, second and third; the first comprises the men of best character, the second the middling, and the third the worst; the first-class men get 9*d.* a week, the second-class men get 6*d.*, and the third-class men get 4*d.*; that is entirely on account of character; besides that, each man may earn an additional 6*d.* a week by industry. Though a first class man with merely ordinary labour will get only his 9*d.*, a third-class man may get his 4*d.* for classification, and also 6*d.* additional by industry; so that, in fact, an industrious third-class man would get 1*d.* a week more than a man of good character who did not exert himself at labour; a first-class man being very industrious would get his 9*d.*, and also an additional 6*d.*, making 1*s.* 3*d.*; at that rate a man can gain in a year at the outside, supposing him to be in the first-class, and of industrious habits, about 3*l.* 5*s.* Weekly reports are made of the industry of every man, and according to certain instructions the governor allots those extra sixpences, or such parts of them as the report of the men's industry justifies, among the different prisoners.

897. Have you any information to give the Committee with regard to the revocations of the licences?—Chiefly upon those which have been revoked from public works.

898. Will

898. Will you state it?—It is singular to observe the regularity of the increase which takes places in the per-centage each quarter on the aggregate number. There have been 10 quarters now to the 31st of March since the Act came into operation, and the per-centage has increased at the rate very nearly of three-tenths per cent. in each quarter; at the latest period the per-centage of revocations of licences on public works was $3\frac{4}{10}$ths per cent., which on the 10 quarters makes about three-tenths as the average of each quarter; and in tracing them up individually, it has gone on nearly at that progress during the whole of the 10 quarters, so that one might almost calculate from that, at any number of quarters in advance of the present time, what the per-centage of the revocations would be. Capt. *I. S. Whitty.* 1 May 1856.

899. Have you any table before you representing these results?—I have.

[*The Witness delivered in the same, which is as follows:*]

Quarterly Rate of Revocations, 0·3 per cent. on the Aggregate Number.

Periods.	Licensed Nos.	Total Numbers Licensed. In each Period. (*a.*)	Total Numbers Licensed. Aggregate Number. (*b.*)	Total Number of Revocations of Licence. In each Period. (*c.*)	Total Number of Revocations of Licence. Aggregate Number. (*d.*)	Per-centage of Revocation. On Number Licensed in each Period. (*a* and *c.*)	Per-centage of Revocation. On Aggregate Number of Licences. (*b* and *d.*)
r months, to 31 December 1853	- -	335	335	1	1	0·3	0·3
ee months, to 31 March - 1854	- -	314 (100)*	649	0	1	0·0	0·15
)itto, - to 30 June - 1854	- -	480	1,129	8	9	1·7	0·8
)itto, - to 30 Sept. - 1854	- -	551	1,680	2	11	0·36	0·6
)itto, - to 31 Dec. - 1854	- -	550	2,230	12	23	2·2	1·03
)itto, - to 31 March - 1855	- -	433	2,663	19	42	4·4	1·6
)itto, - to 30 June - 1855	- -	761 (194)*	3,424	28	70	3·7	2·0
)itto, - to 30 Sept. - 1855	- -	550 (18)*	3,974	28	98	5·1	2·5
)itto, - to 31 Dec. - 1855	- -	694 (39)*	4,668	28	126	4·0	2·7
)itto, - to 31 March - 1856	- -	660 (67)*	5,328	55	181	8·5	3·4
		5,328		181			
		*Bermuda, Gibraltar (418)					

Captain *Whitty.*] There is another circumstance connected with the revocations of the licences of men on public works which deserves to be noted. It is sometimes said that the worst men, when they are in prison, make the best prisoners. I think the experience on public works, since the licensing system began, is rather against that. I stated before, that it was only the exemplary men who were discharged at the minimum period; others are detained one, two, three months, and so on, according to their recorded conduct. I find that only two and four-tenths per cent. of exemplary men have had their licences revoked. Those who have been detained longer on account of misconduct in prison, go to a much higher per-centage of revocations; some of them going as high as six and three-tenths per cent., but none of them in any degree coming near the exemplary men.

900. By the exemplary men, you mean the first class?—I mean the men who are discharged at the earliest possible period in consequence of their very exemplary conduct; fewer of them come back on revocations than any of the others.

901. Mr. *M. Milnes.*] Do you not find great difficulty in practically determining the moral condition of these men?—We are obliged, in a great degree, to depend upon the man's actual observed conduct.

902. Are you not aware that the observed conduct is often really no exact criterion of a change in the mind of the man?—I am quite aware of it.

 903. *Chairman.*]

Capt. *I. S. Whitty.*

1 May 1856.

903. *Chairman.*] Is there any further information upon the subject of the revocations of tickets of leave, which you think it material to give the Committee?—I do not know that there is, except that a great many of the men who have come back with revoked licences have complained very much of their being interfered with by the police; but, of course, I cannot speak of that from my own knowledge.

904. What is the nature of their complaints?—They say that the police interfere with them, and point them out to other people.

905. Which police?—The Metropolitan police, and the police generally. I think it refers principally to Borough police; it is a great subject of complaint.

906. What is the nature of the complaints which they make?—The nature of the complaints which they have made is, that the police interfere with their getting employment, by pointing them out as licensed convicts.

907. Mr. *B. Denison.*] By "coming back" you mean coming back committed?—Coming back with revoked licences.

908. *Chairman.*] Have you formed any opinion as to the effect of sentences of penal servitude on the conduct of prisoners, as compared with sentences of transportation?—The effect of the sentence of penal servitude has been decidedly unfavourable generally on the conduct of the men as compared with the sentence of transportation.

909. Will you explain that answer?—They all complain that they have no encouragement to good conduct, the same as the men had under sentence of transportation; that however well they may behave, there is no prospect before them but to serve the whole of the time of the sentence which has been allotted to them; whereas, they see the men who are under sentence of transportation under different rules altogether, and their detention depending in a great measure beyond a certain point upon their conduct. It has been a source of great anxiety and trouble to all the officers connected with the prisons on the public works, and has in one case led to very serious misconduct. I should explain, that the men under sentence of transportation, to whom I allude, are those under sentence of transportation under the old Act.

910. In your opinion, is there good ground for that complaint?—I think there is.

911. Will you explain to the Committee your views more fully?—The men under sentence of penal servitude, who have come into prison, are associated with other men whose sentences may be shortened in consequence of good conduct, and they naturally contrast the situation of those men with their own position, in which that reward is completely taken away from them; and it is very difficult indeed to find any other reward to substitute for it, without relaxing prison discipline to such an extent as would render it almost impossible to manage men in association.

912. You mentioned one particular case, what was that?—It occurred at Portland, in the month of September last. A very large number of the men under penal servitude had plotted together to strike work when they were in the quarries; to a certain extent they did so, and a large number of them were obliged to be taken into the prison, and there confined. Some of them were guilty of very gross acts of insubordination, which led to very severe punishment; but a very few, and those some of the worst men, under sentence of transportation, joined these men, and it was some time before we could get the prison into a satisfactory state of quiet again from the excitement which had been caused by this proceeding; though there is no doubt that a great many of the prisoners, when the time came, failed to support their fellow prisoners who were more daring. The governors generally have represented to me that there is a perceptible difference between the conduct and bearing of the penal servitude men and of those who were previously under sentence of transportation. I can also state from my own knowledge that there has been an increase of those punishments which have been inflicted by the director. The cases of misconduct which it has been necessary to bring to the notice of a director, which were beyond the powers of a governor to punish, have been more numerous.

913. Among the penal servitude men?—Yes; I may state that there has been a falling off, not only in the conduct, but in the comparative value of labour in the past year from what it was previously, and I can attribute this to no other cause except a want of sufficient encouragement to willing industry and good conduct, which before existed with the men under sentence of transportation.

portation. The officers overhear the men saying that they are to serve the whole of their sentence, and that it matters very little to them whether they work hard or not.

914. Mr. *B. Denison.*] Is it the penal servitude men who complain that they must serve out their whole time, and that therefore they have no inducement to industry?—Yes.

915. *Chairman.*] I understand you to say that in the case of the men under sentence of transportation, where there is the motive of hope that by good behaviour they may bring about their liberty sooner, they have a stronger motive to conduct themselves well than the men under sentence of penal servitude, who have no such prospect?—Precisely; the number of men now sentenced to transportation is very small.

916. Is not that difference which we are speaking of, and which you say you think you have seen in times past, and up to the present time, a temporary one, which is likely to die away?—I do not think it will die away: the means of comparison will die away, but still these men know that they are to serve the whole of their time.

917. You mean, then, that the men under penal servitude will not have the same motive to good behaviour that the men under sentence of transportation had?—Yes.

918. But the means of comparison between the two will fail by and by?—Yes.

919. Still you think that one disadvantage of the system of penal servitude is, that it is not attended, and cannot be attended, from the nature of things, with the same motive of hope which led a man under sentence of transportation to exert himself for the purpose of gaining his liberty?—Precisely.

920. Sir *J. Pakington.*] You have just told the Committee that you have perceived a difference in the value of labour in the case of these men who were not under the influence of hope?—Yes.

921. How have you tested that difference in the value of labour?—We have tested it by the whole year's value of labour. As the number of these men have increased in the prison, so we have found that there has been a falling off in the value of the labour; the value of the labour of the year is always estimated.

922. You have taken it, I apprehend, by aggregate results, and not by testing the labour of individuals?—I am speaking of the aggregate results; but the officers also report to me that there is not the same industry among the penal servitude men, individually, as there was among the men before, who were sentenced to transportation, and had advantages attending it.

923. You spoke of the hulks at Woolwich, and said there were two hulks, one containing 528 prisoners, the other 450; have you found any bad results, in point of discipline, from the confinement of men in hulks?—There is a great difference between men confined in hulks and men confined in such a prison as Portland, where each man has his separate cell to himself.

924. You probably recollect that some 14 or 15 years ago the practice of sending men abroad for short periods was discontinued, and that they were confined in hulks in this country instead?—Yes.

925. Is it within your recollection that on the interference of the House of Commons that system was abandoned in consequence of its very bad moral results?—I was not then connected with the prison service; I do not recollect it.

926. Now that you are connected specially with this part of the prison service, is it your own experience that it is difficult to preserve discipline and good conduct in those hulks?—Very difficult.

927. Do you not think it very desirable that the system of keeping convicts in hulks should be abandoned?—Very desirable, and it is in progress of being abandoned.

928. These hulks were about to be given up?—There is a new prison building at Chatham, which will hold a great number of the prisoners now in the hulks at Woolwich.

929. You told us that the establishment at Dartmoor is divided into two parts, one for able-bodied men, and the other for infirm or invalid prisoners; how are the able-bodied men at Dartmoor employed?—They are employed in agriculture chiefly.

930. Do you find that that system works well of employing the men in agriculture at Dartmoor?—I have strong doubts that it does work well.

Capt. *I. S. Whitty.*

1 May 1856.

931. What is your objection to it?—I think that when you have to reclaim land, as is the case at Dartmoor, your work is continually going further from you; your borders are continually enlarging; when it is all brought into cultivation I question whether the number of men who would then be sufficient for keeping that land in cultivation, would justify the expense of a very large establishment.

932. But the object of such an establishment, I apprehend, is rather to reclaim men than to reclaim land; how does it work upon the men?—There I think the labour is fair enough.

933. I think in what you told us, just now, about the difference which you had observed between men under sentence of penal servitude, and men under sentence of transportation, you spoke of Portland?—Yes.

934. Do you extend the same opinions to the men who are confined at Dartmoor?—On all the public works.

935. You have, I suppose, at present, men of both those classes at Dartmoor, have you not?—Yes.

936. Do you find there that the transports are the most industrious of the two?—We have found so.

937. You mentioned to the Committee the periods of time at the end of which licences are granted, in commutation of the respective periods of transportation. You told us that prisoners under 10 years' sentence, received their licences at 4 years; under 14, at 6; 15, at 6½; and 20, at 8 years?—Yes.

938. I apprehend that the longer of those periods are at present entirely prospective, are they not. It is a new system, and time enough has not yet expired to bring these longer periods into action?—In some cases there has been time. It applies to men who were transported before the Act passed; for instance, invalids who cannot be sent abroad, and who are to be discharged in this country. There are several of those 14 years' men whose six years have expired since their sentence, and it would apply to them.

939. Then there have been cases in which these longer periods have been actually applied?—Yes.

940. But it has been in the cases of invalids?—Yes.

941. Not of able-bodied men?—No, for they would naturally have been transported.

942. With respect to able-bodied men, these longer periods are still prospective?—Yes.

943. Conversant as you are with the system in these prisons, do you anticipate any difficulty or any serious objection to keeping men in imprisonment for these long periods of time, namely, for six and a half and eight years, as regards the effect of imprisonment upon themselves?—I cannot see that it would injure a man's health being kept on public works for that time.

944. It has been stated by one of the witnesses examined before this Committee, that he considered it an objection to any extension of the present scale of penal servitude, that the latter years of imprisonment bore much more severely upon prisoners than the earlier years, and that therefore they would not be able to bear those longer periods; is it your opinion that there would be any difficulty in devising a system in those prisons where public works are carried on, under which long periods of imprisonment might be carried out without any injury to the prisoners?—I really do not see that six or even eight years on public works would injure a man's health.

945. Without referring exactly to health, do you think that, as the system is at present, a lengthened imprisonment would be so depressing to a man's mind or to his general feeling as to make it a punishment of undue severity?—I cannot say that I do, because invalids have undergone that.

946. And without bad effect?—If a further imprisonment would endanger life, it is then the duty of the medical officer to bring forward the case before the Secretary of State, that it may be considered whether the man shall be pardoned or not.

947. I put this as a question rather of the effect upon the mind than upon the body in the shape of health; do you think that there is anything in the nature of the system of these public works so depressing in its character that the latter years of a lengthened imprisonment amount to a punishment of undue severity?—I must say in answer to that, that there is scarcely any case, indeed, I do not call to mind one, in which a man has been that length of time

on

on public works, because those men who could be that length of time on public works have been sent abroad; it is only the seven and the ten years' men that we see the end of in that way on public works.

948. I have felt the difficulty of the position which I am putting to you on that ground, but I put these questions because you state that men of indifferent health at least have been detained for these long periods?—Yes, invalids.

949. And even with regard to them you have found no practical difficulty?—I cannot say that I have found any practical difficulty.

950. Speaking prospectively and theoretically, do you think from your experience in this class of prisoners that there would be the least difficulty in arranging a system under which very long imprisonments might be carried out without injury either to mind or to body?—I think that by relaxing the system at the end it might be done.

951. You are, of course, aware that the Act of Parliament adopting penal servitude in lieu of transportation contemplates the sentence of penal servitude for life?—Yes.

952. Do you think that there would be practical difficulty in arranging a system of imprisonment which might be safely visited upon a prisoner for life?—I have never had any experience of a sentence of that kind, but it does appear to me that it would be an extreme sentence to pass upon a young man, to keep him in prison for life.

953. Of course my question is directed to this, whether in cases in which justice and the law of the land require a sentence of extreme severity there is anything in the nature of imprisonment of this character which would make it improper, on the ground of health, to inflict upon a man the sentence that he shall pass the remainder of his days in labour of that description?—I really do not see that the prison life, as it is carried on on public works, ought to damage him.

954. Mr. *B. Denison.*] You told us that the men who are sentenced to penal servitude, and who expect to work it out to the end of their sentence, are less active and less ready to conform to the rules of the prison than those who are under sentence of transportation, and whose sentence may be, to a certain extent, shortened?—Yes.

955. Are you very much surprised at penal servitude having that operation upon the minds of the men?—Not at all.

956. Is it not a very natural consequence that a man of that description, who knows that he must serve either four or six years in a prison, should become a morose and more careless character than a man who has some sort of hope before him that he may, by good conduct, be released?—I think so.

957. Do you think that a man who is now sentenced to penal servitude for four years, with a certainty of serving for four years, would not be better treated upon the whole, as regards himself, and as regards society, if he were sentenced to six years, subject to being set at liberty sooner on account of good conduct?—At an earlier period than four years?

958. I leave that an open question; the suggestion being that there should be a power in the Secretary of State in the case of a man sentenced to six years' penal servitude against four, to remit a part of his sentence, do you not think that it would have a better effect upon the man's conduct generally, and induce him to exert himself and to become a better member of society?—I do, certainly.

959. Mr. *M. Milnes.*] Do you regard the labour to which a man is submitted at Portland as more severe than the usual work which a healthy labouring man in good work undergoes?—It is much the same, I think.

960. You do not think that the physical labour of a man from the working classes, transported to Portland, would necessarily produce more injurious effects upon his health than the labour of the usual daily life?—I do not.

961. Wherefore, then, is there any reason to suppose that the length of the period is likely to have anything to do with the man's good or bad health?—Because his labour is connected with imprisonment.

962. Therefore the effect upon the man's constitution will be in consequence of moral causes, and not of physical ones?—I do not see that the physical causes at Portland (taking that place for example), in a man's labour, taken by itself, would be likely to injure him more than ordinary labour elsewhere.

963. Therefore, it is not the labour in itself which would produce any in-

Capt. *I. S. Whitty.*

1 May 1856.

urious effect upon the health of the criminal, whatever was the length of it?—I think not, if properly regulated.

964. Would not the moral effect of a long or hopeless sentence probably produce even worse results upon the mind of a criminal without the labour than with it?—I should think it certainly would.

965. Do you not find that the labour is in itself very useful as a distraction from the moral discomfort of a criminal?—Very much so.

966. Do you find that the inequality of the punishment from the previous habits of the criminal is very great?—At first it is very great.

967. Why do you say "at first"?—I was, myself, the governor of Portland Prison for some time, and many men who had been clerks and drapers, and in other in-door employments of that kind, used to complain on this point on first coming to Portland: they used to show me their hands, that they had been excoriated from working among the rocks, and they used to complain that they could never get on with that kind of work; that it was not what they had been accustomed to; but these complaints very soon ceased, and these men worked as willingly, and complained as little about their hands, after a while, as the other men.

968. If, then, criminals are to be subjected to any labour at all, do you think that out-door labour, such as you have at Portland, is in the end more equal than perhaps any other which can be mentioned?—I think it more equal than any in-door kind of employment which you could find for them.

969. I asked you a question before, as to the difficulty in the way of testing the moral improvement of a man; I asked you whether you found it difficult to establish any criterion?—One criterion is, naturally, the observed and recorded conduct of the prisoners under the prison rules.

970. Have not the governors of the prisons, or the directors of the establishments, any power to judge of the conduct of a prisoner except by those rules?—The governors and chaplains observe the man's conduct, and keep records of it; the governor is chiefly guided by the reports which he gets from his officers; and the chaplain is guided, in a great measure, by that, and also by what he sees of the man's disposition in his communications with him.

971. How far, in your experience, is the judgment of the chaplain in these matters to be attended to, speaking generally, of course?—I think great dependence is to be placed upon it.

972. You must be aware that there is a very strong feeling in the public mind, encouraged by works of fiction and other causes, that a certain amount of skilful hypocrisy and judicious temperance of conduct in a prison may enable a criminal to gain, not only the favour of the authorities, but a remission of sentence, without any real change in his character and disposition; do you think that this is a real danger, and one which is to be guarded against?—I do not think it is a real danger; a man would gain nothing on public works by hypocrisy towards the chaplain; from the system in force he could gain nothing by it.

973. At any rate, whatever other systems may be amenable to that accusation, yet you think that the system of public works would be comparatively free from it?—A man could gain nothing, that I see, from it; what I mean by that is, that if his conduct was otherwise bad, the chaplain's favourable opinion in opposition to the governor's would in no way help him to his getting the rewards which are the result of good conduct.

974. Do you find that the men ever express regret at the abolition of the system of transportation beyond the seas?—Several men, to my own knowledge, have stated that they would much rather be sent abroad than retained at home; they would rather have a new field open to them.

975. Do you mean under the old system or under the new?—I mean that they would rather be transported.

976. Is the doing away, then, with the old system of transportation looked upon by the men with regret?—By many.

977. Do you find the men willing or unwilling to be transported to public works at other places out of the country, such as Gibraltar and Bermuda?—They like a change; so far many of them would like to go to Gibraltar or Bermuda.

978. Have they less sense of shame and disgrace in being removed to another part?—I do not know that that is any motive with them.

Lunæ, 5° die Maii, 1856.

MEMBERS PRESENT.

Mr. Baines.	Mr. Massey.
Sir John Pakington.	Mr. Beckett Denison.
Mr. Adderley.	Mr. Deedes.
Mr. Serjeant O'Brien.	Mr. Seymour Fitzgerald.
Mr. Wickham.	Mr. Monckton Milnes.
Mr. John Wynne.	Mr. Ker Seymer.

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Captain *Irwine S. Whitty*, called in; and further Examined.

Capt. *I. S. Whitty.*

5 May 1856.

979. *Chairman.*] IS there any point of the evidence which you gave at our last meeting to which you wish to refer now for the purpose of explanation?—There are one or two points.

980. Will you have the goodness to state them?—With respect to convict earnings, I mentioned that 31*l.* 5*s.* was the outside that a convict could generally gain in a year; but I should have also stated that a certain class of convicts had an opportunity of gaining 6*d.* a week additional to that; these were men who, at the time that there was a difficulty in sending convicts abroad at the minimum periods, were compensated in some degree for their longer detention in prison, and one part of that compensation was an additional 6*d.* a week as gratuity. With regard to the penal servitude men, in the different stages which they are passed through, they may also, after a certain time of imprisonment, obtain additional earnings, which will be explained by the notice to penal servitude prisoners which I now hand in.

[*The Witness delivered in the same, which is as follows:*]

NOTICE to CONVICTS under Sentence of TRANSPORTATION and PENAL SERVITUDE.

TRANSPORTATION for certain offences having been abolished by Act of Parliament, and certain periods of imprisonment of much shorter duration under the term "Penal Servitude" having been substituted in place of the sentences of seven and ten years' transportation which had been usually awarded, no remission, as a general rule, of any part of the term of penal servitude will be granted; the period of detention in place of a longer sentence of transportation having been settled by law. The Secretary of State will, however, be prepared to consider the case of any convict whose conduct may be the subject of special recommendation. The Secretary of State is also desirous, as a general rule, of holding out encouragement to good conduct by establishing successive stages of discipline, to each of which some special privileges will be attached.

Convicts of good conduct, and maintaining a character for willing industry, will, by this rule, be enabled after certain fixed periods, to obtain the higher stages, and gain the privileges attached to them.

For the present, and until further orders, the following rules will be observed:—

All convicts under sentence of penal servitude will be subjected to a period of separate confinement followed by labour on public works.

Convicts under sentence of transportation will be subject to the same discipline so long as they are imprisoned in this country.

SEPARATE CONFINEMENT.

1. Convicts, as a general rule, will be detained in separate confinement for a period of nine months from the date of their reception in a Government prison.

2. Every convict who, during a detention of six months in the prison, may have conducted himself in a satisfactory manner, will be allowed to wear a badge, which will entitle him to receive a visit from his friends. A second badge, with the privilege of a second visit, will be granted at the end of three additional months, provided his conduct has continued to be satisfactory.

Capt. *I. S. Whitty.*

5 May 1856.

3. Convicts wearing badges will be recommended for gratuities to be placed to their credit, according to the scale approved by the Secretary of State.

4. In the event of a convict being deprived of a badge through misconduct, he will, at the same time, forfeit all advantages he had derived from it, including the gratuity already credited to him (if so ordered). He may, however, regain the forfeited badge after an interval of two months, if specially recommended by the governor and chaplain.

5. On removal of convicts from separate confinement to public works, they will be placed in the first, second, or third class, according to their conduct, attention to instruction, and industry. This classification will affect their position in the following stages of their servitude.

6. Convicts deemed to be incorrigible will be specially dealt with.

PUBLIC WORKS.

On the reception of a convict on public works, the remaining term of his sentence, reckoning twelve months from conviction, will be divided into four portions or stages of discipline, any odd weeks or months being placed in the first stage.

Discipline of the First Stage.

Convicts undergoing the first of the four portions of penal servitude on public works, will be subject to the ordinary discipline of the prison, and be classified as usual in 1st, 2d, or 3d class.

Second Stage, comprising the Second Quarter of the Period on Public Works.

Convicts during this stage, will be permitted to write and receive letters, and have visits, every second month.

They will also receive an addition of 6*d.* to the ordinary weekly gratuity to which they may be otherwise entitled.

A badge denoting the promotion to this stage will be worn by each convict.

Third Stage, comprising the Third Quarter of the Period on Public Works.

Convicts who gain this stage, will have the privilege of writing and receiving letters, and having visits, monthly.

An addition of 3*d.* a week to the gratuity of the second stage, making 9*d.* additional to the ordinary gratuity, will be granted to convicts in this stage.

Some addition to their dinner on Sunday, including half a pint of beer, will be allowed.

Tea may be also substituted for gruel at supper.

An additional badge, denoting the promotion to this stage, will be worn.

Fourth Stage, comprising the Last Quarter of the whole Period on Public Works.

An addition of 3*d.* to the gratuity of the third stage, or 1*s.* a week additional to the ordinary gratuity, will be granted.

An occasional variety of diet will be permitted.

Lights will be allowed in the cells an hour later than under the existing regulations.

A different dress from that of the other convicts will be worn.

If unfavourable reports should be received of a convict from separate confinement, or his conduct on public works be unsatisfactory or only moderately good, his progress towards the advantages of the several stages will be proportionably retarded, and he will be liable for misconduct to be removed back into any previous stage.

Captain *Whitty.*] It will be seen by that notice that after certain stages of imprisonment penal servitude prisoners of good conduct are allowed to acquire additional earnings as a reward for industry and conduct.

981. Is there any other point to which you wish to direct the attention of the Committee by way of explanation of your former statement?—Yes; with respect to the accommodation at Dartmoor Prison it is intended to reduce the number of convicts at Dartmoor to about 800, invalids exclusively; these invalids being men who are considered fit only for light labour.

982. Is there any other point upon which you desire to make any observations?—There is one other point; I stated that the effect of penal servitude sentences, as compared with those of transportation, was found unfavourable for discipline and industry in the prison; I wish to observe that that appears not only of importance as regards the trouble it may give to the officers, and the danger which may attend it, but that it is found that a state of general disquietude among the prisoners, and a tendency to general insubordination, are very unfavourable for producing

producing any kind of moral or religious improvement among them, and, therefore, I consider the difference between the two sentences to be very important.

983. Is there any other point to which you wish to allude?—There is no other point.

984. You stated, when you were here before, that the hulk system was in process of abandonment?—Yes.

985. Is it proposed to get rid of it altogether?—Whenever an opportunity occurs.

986. And you are now lessening it as far as possible?—It is now being lessened as far as possible.

987. I suppose by "opportunity" you mean whenever you can get increased accommodation elsewhere?—Whenever sites can be got for prisons in place of the hulks.

988. Mr. *Wickham.*] There is a large building at Chatham, is there not?—There is.

989. Mr. *Adderley.*] When you say that the effect of penal servitude sentences has been unfavourable compared with the transportation sentences, of course you allude to old transportation sentences?—Yes.

990. Will there be the same unfavourable comparison, do you suppose, in the two sentences under the new Act when they are all working together?—I think there will.

991. Will you state why?—The long-sentence men under sentence of transportation will be selected for transmission to a colony at an earlier period in consequence of their good conduct; therefore the penal servitude men will see that these men under sentence of transportation are actually gaining the remission of a part of their imprisonment in consequence of good conduct, while they themselves are not.

992. Supposing the system of licences to be abandoned, the term of imprisonment under both sentences, whether of penal servitude or of transportation, will be equally rigid, and not subject to modification?—I apprehend that all able-bodied men will still continue to be transported to Western Australia.

993. Will not that portion of their sentence be an addition to the term of imprisonment which, under both sentences, will be equally unalterable?—The system under which men have been transported hitherto has been, that at a certain period of their sentence, if their conduct has been good, they have been sent abroad with tickets-of-leave; if their conduct has been unfavourable, they have been detained longer in this country; so that, in fact, a man of good conduct gets sooner sent abroad, and is sooner in a state of comparative freedom than he would otherwise be.

994. Am I to understand, that, under the Act of 1853, supposing no licences to be at large to be given under sentences either of penal servitude or transportation, the sentences of transportation will still be subject to mitigation, more than the sentences of penal servitude?—I apprehend so.

995. In what way?—In the same way as they have been hitherto. I apprehend that the governor of the colony will have instructions as to the time that these men are to have a licence in the colony.

996. Will you state in what way a sentence to penal servitude for six years, and in what way a sentence to transportation for 14 years, will be carried out under the Act of 1853?—With respect to a prisoner for six years' penal servitude, it is intended, as far as our instructions go, that he shall be kept for six years actually in prison, and then be discharged; a 14 years' transportation man, if he is kept in this country, will be kept for six years in imprisonment, and then be discharged, under a licence, in this country.

997. How will a sentence to transportation be carried out, under which the criminal is sent at once abroad?—That will depend upon the instructions which the governor of the colony has. We lose sight of the men altogether, when they go abroad. I should apprehend that such a man would remain abroad during the whole of his sentence of 14 years, but under what conditions I cannot say, because it would depend upon the instructions to the governor of the colony with regard to him.

998. Then how will a sentence to transportation, under any circumstances, be more liable to mitigation than a sentence to penal servitude?—I am speaking of

Capt. *I. S. Whitty.*

5 May 1856.

the past mode of carrying out sentences to transportation. My intention was to contrast the present system of penal servitude with the system that existed before of dealing with convicts under sentence of transportation.

999. Do you think that, comparing sentences to penal servitude with sentences to transportation, under the Act of 1853, when the two were working together, there will still be that unfavourable contrast between the sentences to penal servitude and those to transportation?—I think the circumstances are quite different from what they were before.

1000. You do not see that there will be the same unfavourable comparison between the two?—No, certainly not; it will be diminished. Unless the sentences of transportation are carried out as they were before, it will not be the case; if they are carried out as they were before, it certainly will be.

1001. You say that if prisoners are kept the whole time of their sentence, there will be little inducement to good conduct; will not there still be the motive to good conduct which is produced by the system of earnings in prison?—I think I said little comparative encouragement.

1002. Do you suppose that the system of earnings in prison will not be a sufficient inducement to good conduct without the additional encouragement of a mitigation of term?—I really do not.

1003. When you stated that there was a steadily increasing scale of revocation of licences, are you sure that during the whole time to which that scale applies the returns were equally accurate?—The number of revocations, I consider, were; I am confining it entirely to revocations; not to men who have been re-committed.

1004. Do you consider that sending discharged prisoners to the place of conviction is a good system?—I think it is, except a man can show that he has more decided opportunities of sufficient employment or support at another place.

1005. Have you ever turned your mind to devising a better mode of discharging prisoners?—I have often thought of it.

1006. Have you any plan which you could suggest?—I really could suggest no better plan than sending the man to the place of his conviction, and one great reason, I think, why it is well to send a man to the place of his conviction is, that he is known there.

1007. Why do you consider that a good point?—I think in many instances it is a good point; I think a man is more likely to guard his conduct if he knows that people are aware of what he was before.

1008. Have you ever considered the establishment of places of reference for the employment of discharged prisoners?—Under Government?

1009. Either under Government or under private management?—I have often thought of it.

1010. Do you think favourably of the plan?—I do not think favourably of any plan by which men in the position of licensed convicts can be brought together in large numbers.

1011. Suppose there were such places in every large town throughout the kingdom?—That would completely obviate the difficulty which I am mentioning, because the men would then be scattered, so that they could not be in any town, I suppose, collected in a large number.

1012. Have you at all carefully considered that subject?—I have naturally thought of it a great deal, from the difficulties which have suggested themselves in these men getting employment.

1013. Do you consider that any such institutions would be best in the hands of Government or in the hands of private individuals?—I should think they would be best in the hands of private individuals.

1014. Will you state your reasons for preferring the management of private individuals?—I think the prisoners themselves would be more likely to resort to them if they were in the hands of private individuals; I think if they were in the hands of Government they would to a certain extent feel that they were still prisoners, and that, I think, would operate as an objection in the minds of many.

1015. Have you other reasons for preferring the management of such institutions by private individuals?—No, I think that is the main reason.

1016. Can you give us any opinion as to which of the two sentences, penal servitude or transportation, under the Act of 1853, is generally most feared?—I think

I think penal servitude is most feared, but it is merely a matter of opinion on my part.

1017. Still you do entertain that opinion?—I do.

1018. Do you consider that the class of worst criminals are the right class to transport, treating the less serious crimes by sentences of penal servitude, or would you reverse that order of punishment?—I should certainly think it was of more advantage to this country to get rid of the worst class of prisoners.

1019. Have you ever seen a ticket-of-leave endorsed with any such order as this, "Prisoner not to be employed in such and such a county"?—"Not to return to such a county" I have seen.

1020. Have you ever seen one which stated, that a prisoner was not to be employed, we will say in Middlesex?—I do not remember ever seeing one expressed in that way.

1021. But it is frequently "Not to return to such a county"?—Yes.

1022. And supposing he did return to such a county, would he be liable to have his licence revoked?—Yes.

1023. Mr. *B. Denison.*] Do you suppose that any parties who had been in prison, and who went to the refuges which the honourable Member alluded to, would to any extent get employment; would application be made at such places for men, for any particular employment?—I doubt that applications would be made to those places for labour. As I understood the question, they were to be employed there.

1024. From what you know of society, do you think that parties would apply for labourers at such a place?—My idea of such a place was, that labour would be there provided for them; not that they would go there and wait till they were asked for.

1025. There was another question which the honourable Member put to you about the impression which the different sentences would make upon the minds of these parties, and which of them would produce the most effect. Do you believe that any of these parties calculate beforehand what is likely to be the sentence, whether penal servitude or transportation?—Not before they commit their offence, I think; but I think it is very likely that when they have committed the offence and are taken up, they then speculate upon which sentence they are likely to have.

1026. Is not the sentence upon an individual intended as much to deter other persons from committing such an offence, as to punish the offender himself?—That is very true.

1027. Would it not be more natural for the parties who are not before the court at the time to calculate upon which would be the worst sentence of the two; it is too late for the prisoner at the bar to calculate?—He speculates upon which sentence he is likely to have.

1028. He may speculate, but it is evidently too late for him to calculate, because he has committed the offence, and he stands at the bar. Do you believe that such parties ever calculate before they commit an offence what is likely to be the result of the trial as regards the punishment?—I think it is very doubtful that they do. When a man is about to commit an offence, I am of opinion that he does not think much about the punishment which is likely to follow.

1029. Mr. *Wickham.*] Do you know what is the actual treatment intended to be pursued of parties transported since the year 1853?—No further than that I believe it is intended to send them to Western Australia.

1030. And not to keep them at all in this country for any portion of their sentence?—I apprehend not, except they are invalids; if they are fit for transportation, I apprehend that they will be transported.

1031. Immediately?—They go through a stage of separate confinement in this country, and then they are sent to public works, and from those public works they are sent abroad, I apprehend, as opportunity occurs.

1032. Are you aware what actual regulations at present exist on that subject?—That is the regulation.

1033. How long are they to be detained?—Until an opportunity occurs of sending them abroad.

1034. How long are they to be detained in separate confinement?—Nine months is the general time.

1035. Mr. Serjeant *O'Brien.*] Are you aware of any reason why the system

Capt. *I. S. Whitty.*

5 May 1856.

of shortening the period of punishment according to the good conduct of a prisoner, should not apply to the case of penal servitude as well as to the sentence of transportation?—I am not, supposing that the length of sentence was allotted in accordance with it.

1036. There is no provision for that in the Act of Parliament?—I apprehend that there is nothing in the Act to prevent a licence being granted to a penal-servitude prisoner.

1037. Does the notice produced from the Secretary of State's office apply to all convicts, male as well as female?—I think that Captain O'Brien handed in one as to females.

1038. Is there a similar rule as to all convicts, male and female?—Yes; there are similar notices issued with regard to both male and female convicts.

Colonel *Joshua Jebb*, R.E., C.B., called in; and Examined.

Colonel *J. Jebb*, R. E., C. B.

1039. *Chairman.*] WHAT is the office which you hold?—Chairman of the Directors of Convict Prisons.

1040. How long have you held that office?—Since the passing of the Act, 29th July 1850.

1041. I believe the subject of the inquiries of this Committee has been very much under your consideration officially?—It has.

1042. In all its parts?—Having been connected with the convict discipline since Pentonville and Parkhurst were first erected, now about 18 years ago, the subject naturally has engaged much of my attention.

1043. Considering the office which you hold, and the opportunities which you have had of attending to this subject, I will, at the risk of something like repetition, put to you some questions which have been put to the other witnesses. It is very important, I think, that we should have your views upon the whole subject, as far as we can. You remember the passing of the Act 16 & 17 Vict. c. 99?—Yes.

1044. Before that time, had there been discussions as to the question of diminishing the number of prisoners to be transported?—The question of diminishing the number of convicts to be transported was, I think, under consideration in 1851. It appeared, on reference to the criminal tables, that, on an average of 10 years previous to that period, the following were the relative numbers sentenced to transportation and imprisonment respectively; viz., sentences of 7 and 10 years' transportation, 2,626; imprisonment for 3 years, and above 2, only 5; 2 years and above 1, 473. The object of mentioning these numbers is to show that a great void existed in the sentences of imprisonment which might have been passed in county prisons, before resorting to a sentence of transportation. The practice was, to pass from a very moderate sentence of imprisonment to the sentence of seven years' transportation. With a view to remedy this defect, and at the same time to afford the means of reducing the number to be sent abroad, it appeared that the Resolutions of the Committee of the House of Commons of 1850 were directed to the point of reducing the number to be sent abroad, by increasing the number who should be sent to prisons for moderate periods of one or two years. The Resolutions of the Committee were as follows:—"14. That after prisoners under long sentences have undergone a period of separate confinement, the remainder of their sentences ought to be passed under a system of combined labour with effectual precautions against intercourse. 15. That this object would be greatly facilitated by the erection of district prisons at the national cost for the reception of prisoners under long sentences, after they have undergone such previous separate confinement. 16. That such district prisons should be maintained at the national cost, and the government of such prisons, and all appointments and salaries of officers, ought to be under the control of Her Majesty's Government." The object of some of these resolutions was, that supposing a sentence of three years' imprisonment to be passed by the quarter sessions, the first probationary period of separate confinement for nine months or twelve months should be carried out at the county prison, and that the man should then be sent to one of the district prisons which are alluded to. No practical steps were taken by the Government at the time for carrying into effect these resolutions, but they have practically been carried out to a great extent, by the passing of the 16 & 17 Victoria, in which there have been substituted in certain cases sentences of penal servitude for those of transportation;

tion; the difference is, that the Government in this case, as these sentences may be regarded as commutations of sentences of transportation, have taken the administration of the whole period, including the separate confinement, into their own hands.

1045. Can you state to the Committee what were the regulations in force immediately prior to the passing of that Act in 1853?—The notice to prisoners, under sentence of transportation, would perhaps best explain that to the Committee; I hold it in my hand, and will put it in as part of my evidence.

1046. When was that notice first adopted?—how long had it been in use prior to the passing of the Act of the 16 & 17 Vict.?—I should think about six years; it was adopted when Portland was first established, under the authority of Sir G. Grey.

1047. Will you read it?—This notice was suspended in every cell; both in the cells of those who were in separate confinement, and of those who were on public works. "Separate confinement.—Prisoners may be recommended for removal on special grounds at any time, but in ordinary cases they will be detained in separate confinement for 12 months. The conduct and character of each prisoner will be carefully watched and noted. Deserving prisoners will receive a good conduct badge, to be worn on the dress after they have been a certain time in the prison. On removal from the prison to public works, prisoners will be placed in one of three classes, according to the report of their character, industry and moral improvement, while in separate confinement. Prisoners who are deemed to be incorrigible will be specially dealt with. First-class prisoners removed to public works will, by continued good conduct, become eligible to be recommended for embarkation at the periods noted in the following scales. Second class prisoners will be liable to three months, and third class prisoners to six months additional detention beyond the period fixed for the detention of first class prisoners." Then we come to public works.

"Ordinary periods of detention on public works in this country proportioned to the terms of different sentences for convicts who have previously passed 12 months in separate confinement.

"SCALE, No. 1.

"A prisoner sentenced to 7 years, for a period not less than 2 years.

Ditto	-	-	-	10	,,	-	-	,,	-	-	3½	,,
Ditto	-	-	-	15	,,	-	-	,,	-	-	6	,,
Ditto	-	-	-	20	,,	-	-	,,	-	-	8½	,,
Ditto	-	-	-	life		-	-	,,	-	-	10½	,,

"If a prisoner has been more or less than one year in separate confinement, the difference will be deducted or added to these periods.

"These periods, together with the previous term passed in separate confinement, and the time occupied in the voyage, are calculated to make up about half the period of sentence; it is, however, to be clearly understood that it is only in cases of prisoners conducting themselves in a satisfactory manner that any such remission of their sentence can be recommended, and that they can only be embarked as opportunities offer, and as may be convenient to the public service." What I am now about to read is an important point: "As a further encouragement, however, such prisoners as conduct themselves in an exemplary manner, and who show by their general demeanor and willing industry that they have profited by the instruction they have received, and are likely to become useful members of society when released from penal discipline, will be eligible to be specially recommended to the Secretary of State at the expiration of a period short of that on the foregoing scale, but not less than according to the following scale, No. 2 (that is to say);

"Minimum period of detention on public works applicable to prisoners whose conduct is exemplary:

"A prisoner sentenced to 7 years, for a period not less than 1 year.

Ditto	-	-	-	10	,,	-	,,	-	-	1¾	,,
Ditto	-	-	-	15	,,	-	,,	-	-	3	,,
Ditto	-	-	-	20	,,	-	,,	-	-	4	,,
Ditto	-	-	-	life	-	-	,,	-	-	5	,,

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

"If a prisoner has been more or less than one year in separate confinement, the difference will be deducted or added to these periods, as before explained.

"In order that every prisoner may be aware of his situation and the effect which his conduct may have in diminishing or extending his period of probationary discipline, records of his conduct, character, and industry will be kept by the governor, chaplain, and other officers, which will be examined monthly (or oftener if required), and the result communicated to the prisoner. If a prisoner's conduct has been in all respects exemplary during the month, he will receive a badge to be worn on his arm, which, if not forfeited by subsequent misconduct, will afterwards enable the director to recommend him for a remission of one month of the period of detention set forth in Scale No. 1. Thus a prisoner under sentence for seven years, who had passed 12 months in separate confinement, would, by exemplary conduct for 12 months on public works, place himself in a position to be specially recommended for 12 months remission of the period laid down in Scale No. 1, and might thus become eligible for embarkation in the minimum period of 12 months as laid down in Scale No. 2; or a prisoner under sentence for 10 years, having passed a like period in separate confinement, conducting himself in an exemplary manner, would place himself in a position to be recommended for embarkation in the minimum period of one year and three-quarters, as laid down in Scale No. 2, instead of being detained three years and a half as prescribed for ordinary cases in Scale No. 1. Prisoners entitled to a less number of badges would be eligible for recommendation at some intermediate period." Then the notice goes on as to the tickets-of-leave in the penal colony; "1. Rules and regulations for the maintenance of good order among ticket-of-leave holders are framed and promulgated in the colony. The following are at present some of their principal conditions, but it must be distinctly understood that they are liable to be varied as may be judged to be necessary and proper by the authorities on the spot. 2. A convict embarked from this country as a ticket-of-leave holder will not pass out of the custody of the Government in the colony, until he shall be engaged for at least a year, for service with some private employer, who shall be responsible for making a certain payment, as hereafter explained in paragraph 5. If suitable service cannot be obtained, the convicts will be employed by Government at wages, out of which they will receive clothing and rations. A small proportion will be paid to them in money, and the remainder credited towards the liquidation of the amount required to be paid to the Government. Until this amount is paid, a convict will only be entitled to a probationary ticket-of-leave, but the full privileges of a ticket-of-leave will be granted as soon as he shall have paid the sum required, provided his conduct has been in all respects satisfactory. 3. The ticket-of-leave holder is required to remain in a particular district, within which he may hire himself out for wages; this is usually a country district, and he must not quit it without obtaining a pass from a magistrate; he must register his place of residence and any change of it; he must be at his own dwelling from 10 o'clock at night until day-break; and he must report himself at certain periods in the year at the police office of his district. For some classes of offences he is liable to summary jurisdiction, and his ticket-of-leave may be recalled for misconduct, in which case he will be subjected to penal labour." This notice was hung up in every cell, so that all men were made aware of the exact conditions which they had to abide by, and of the encouragement which was held out to them for good conduct. As regards the operation of it, I can only say that though the two scales which regulate the period of detention were made, one for men who conducted themselves well, and the other for those who conducted themselves in an exemplary manner, so many of them conducted themselves in an exemplary manner, that I believe at least nine-tenths of them became eligible for release at the end of the minimum period. That gratifying result was obtained under Captain Whitty, who organized the establishment.

1048. Will you describe to the Committee the steps that were taken on the passing of the Act of the 16 & 17 of Victoria with reference to the convicts who were at that time under sentence of transportation?—At the passing of the Act there were about 6,700 men in this country under sentence of seven and ten years' transporsation,

1049. You are speaking of Great Britain, I believe?—Yes; the Act had limited

limited transportation to 14 years, enforcing penal servitude for shorter sentences. It was therefore thought right to commute all sentences for seven and 10 years into imprisonment or penal servitude, with release on licence in this country. It was a very important question to determine what should be done with these men; their sentences, from circumstances, could not be carried out. The men had had the notice referred to before them from the first day of entering a Government prison, and they therefore had strong hopes of embarkation at the regular periods. After a considerable discussion with reference to the peculiar claims of these men, it was determined to commute their sentences into a shorter period than had been usual. It had been the practice to commute sentences of seven and ten years' men into detention for half the periods of the sentence of transportation, but, in consequence of these men having experienced so great a disappointment, and their having conducted themselves in so exemplary a manner, it was determined in the case of the seven years' men that they should be released in the minimum period of three years, and the ten years' men in four years; also, that advantage should be taken of the provisions of the Act for granting licences to them, instead of releasing them perfectly free, as they would have been under the old system. The 14 years' men, some of whom had served a considerable proportion of their sentences, were to be brought forward in six years. The 15 years' men were to come forward in six-and-a-half years; the 20 years' men in eight; and the life sentences were to be considered after a lapse of 10 years. Those were the measures which were immediately adopted with reference to placing before these convicts some certain prospect in substitution of that which they had had before them, and I believe it was, generally speaking, satisfactory to them; it was thought that the Government had dealt fairly and justly.

1050. You are speaking of those persons who had had these sentences passed upon them, whatever portion had been gone through at the time?—Whatever portion had been gone through was accounted for in the several periods I have named.

1051. What, in your opinion, were the effects of the suspension of transportation on the large body of prisoners in confinement at the time of the passing of the Act of 1853?—There was a very general feeling of disappointment among them, but the high standard of moral discipline which had been attained, and the confidence they had in their officers, were such, that it did not break out in any open expression of dissatisfaction; they patiently bore the delay which occurred previously to their receiving any certain prospect, and were generally very well-conducted.

1052. What are the numbers which have been released on licences since the passing of the Act?—I would wish to confine myself, as it will give a more simple view, to the return which was presented to the House of Commons, dated the 11th of March of this year; a few additional men have been released since; but it will be convenient, I think, to confine the explanation to those numbers mentioned in the return, which was as follows, and referred to Great Britain: the number of convicts who since the passing of the Act of 16th and 17th Victoria, chapter 99, have received orders of licence, is 5,152.

1053. Mr. *B. Denison.*] Did the 6,700 apply only to Great Britain?—Yes.

1054. Then the two numbers correspond in that respect?—Yes; the number of convicts who, after receiving such orders of licence, have been convicted of or charged with subsequent offences, is 447. The number of convicts whose orders of licence have been revoked, is 179. The number of convicts whose licences have been refused or withheld for misconduct, is 554. I would wish to offer some explanation upon these numbers. From the 8th of October 1853, the date when the provisions of the Act came into operation, to the 11th of March 1856, a period of two years and five months, there have been released on licence 5,049 males (the females make up the rest); of these there have been committed to prison 424, of whom 404 only have been convicted; the remainder having been acquitted or otherwise disposed of. With respect to the 554 whose licences have been withheld, it merely indicates the number who by some act or acts of misconduct have, during their three or four years' confinement, forfeited a month or months, which has delayed the period when they would otherwise have been eligible for release. The following statement will place these statistics in a more detailed form. The number who have been released from prisons in Great Britain is

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

4,303; the number released from Bermuda and Gibraltar is 435, and the number of juveniles from Parkhurst 311, which makes up the number 5,049. The number (of the 5,049) whose licences have been revoked, is 173. The number of those who have been returned to the convict prisons under fresh sentences, not requiring the licences to be revoked, is 230, which makes up the 404. This number is about 8 per cent. upon the whole number released; and that extending over a period of two years and five months, will give an average of about $3\frac{3}{10}$ per cent. for each year since the system has been in operation, as far as we know. The means of obtaining this information respecting the committal to prison of men under licence, convicted of fresh offences, was very limited at first; but on the 15th of February 1855 the Secretary of State directed a letter to be written to the visiting justices of all prisons, of which the following is a copy:—" Gentlemen,—It being extremely desirable that the Home Department should be in possession of accurate information, so far as the same can be obtained, of the re-committal to prison of individuals released from confinement, by pardon or on orders of licence, and of the circumstances leading to such re-committal, I am directed by Secretary Sir George Grey to request that you will take such measures for ensuring the transmission to this office of a report of every case of this kind which may be discovered in your prison, stating the nature of the new charge against the prisoners, and the particulars, as fully as they can be given, of the prisoners' conviction and release. I am, &c. (signed) *H. Waddington.*"

1055. *Chairman.*] Before the issuing of that letter, had you information, which, in your judgment, could at all represent the true state of facts?—It is perhaps negative evidence, but we have sources of information which are, I think, trustworthy; I allude to the application made by the convicts for the balance of their gratuities, and to the correspondence. The Committee probably has been informed that a certain gratuity is credited to each prisoner, and this accumulates to his credit until the period of his discharge. It is usual when the sum amounts to more than 5 *l.* to pay the man a proportion of it by a post-office order, leaving him to apply for the remainder at the expiration of three months. This application must be accompanied by a certificate from a magistrate, a clergyman, an employer, or some respectable person, that he is earning an honest livelihood up to the date of the three months after his discharge. Of 1,242 applications which had been made up to the 31st of December last, 1,225 had been satisfactory, and 17 only were of a contrary character. The required certificate had been given in these cases by 851 clergymen, 214 magistrates, 177 employers, and others. The total number who had left balances up to that period were, however, 1,828, so that 586 remained to be accounted for; of these the cause of no application having been made remains to be explained. Deducting those whose term of three months had not expired, and other cases which are easily explained, there remained only 145 out of a total of 1,828, concerning whom further explanation was necessary; in this number are included some who had forfeited their licences, others who had left the country, and others who, from a wish to conceal themselves, had been deterred from holding communication with the prison authorities. Of the whole number discharged, 2,052 had left no balance, and cannot, therefore, be judged of by this test; but as these generally were men who had been a shorter time in prison, and therefore had less balance of gratuity due to them, there is no reason to suppose that they were not quite as well-conducted as those who had left balances.

1056. You have no positive information, as I understand you, with regard to the cases, before the issuing of that letter from the Secretary of State's Office in February 1855; but you infer from the facts which you have just stated to the Committee, those results which you have mentioned?—I think that the results would be the same; I do not see reason to believe that they would be otherwise.

1057. Since the issuing of that circular in February 1855, has there been what you consider full and accurate information transmitted?—I think so; of course there must have been some who have escaped detection; but considering that the men, almost without exception, go back to the places from which they came, with a view of obtaining employment, and that they generally make their applications for the balances from the employer to whom they first go, or at the same place, that the police have the same, or perhaps better, means of detecting them than they have of detecting other criminals, I do not see but that we have

have a fair representation, not of course to the full amount; but there is so large a margin left, that in my opinion the result of the measure of releasing men on license has been most satisfactory, far more so than I anticipated. I would beg permission to advert to the crimes for which the 404 convicts have been convicted. The following is an analysis: against the Vagrant Act, there were 38; for assaults, 20; for assaults on the police, 11; for offences against the game laws, 8; for desertion, 7; for misdemeanor, 20; making altogether 104 of that class of offences; for picking pockets and theft, 34; for common larceny, 133; for felony and offences of a grave character, 103; making altogether 270; awaiting sentence, 30; which makes a total of 404.

1058. Have you information which you can give the Committee with regard to the numbers released in the different counties?—Yes; the numbers released in the different counties up to the 31st December last have been as follow:—In Bedfordshire 13, Berkshire 58, Buckinghamshire 26, Cambridgeshire 53, Cheshire 68, Cornwall 21, Cumberland 10, Derbyshire 37, Devonshire 98, Dorsetshire 28, Durham 42, Essex 69, Gloucestershire 64, Hampshire 130, Herefordshire 22, Hertfordshire 44, Huntingdonshire 12, Kent 102, Lancashire 557, Leicestershire 53, Lincolnshire 65, Middlesex 926, Northumberland 65, Nottinghamshire 55, Norfolk 73, Northamptonshire 42, Oxfordshire 42, Rutlandshire 4, Shropshire 31, Somersetshire 211, Staffordshire 146, Suffolk 63, Surrey 104, Sussex 38, Warwickshire 198, Westmorland 9, Wiltshire 52, Worcestershire 66, Yorkshire 311; Wales 96; making altogether 4,104.

1059. You have given us the actual numbers released in the several counties?—Yes.

1060. Is there any other information contained in that table to which you think it material to draw the attention of the Committee?—The population of these different counties is taken from the census returns; and the proportion of ticket-of-leave men to 10,000 of the inhabitants would be as follows: 1 per 10,000 in Bedfordshire, $3\frac{4}{10}$ in Berkshire, $1\frac{6}{10}$ in Buckinghamshire, $2\frac{9}{10}$ in Cambridgeshire, $1\frac{5}{10}$ in Cheshire, $\frac{6}{10}$ in Cornwall, $\frac{5}{10}$ in Cumberland, $1\frac{8}{10}$ in Derbyshire, $1\frac{7}{10}$ in Devonshire, $1\frac{5}{10}$ in Dorsetshire, $1\frac{1}{100}$ in Durham, $1\frac{9}{10}$ in Essex, $1\frac{4}{10}$ in Gloucestershire, $3\frac{8}{10}$ in Hampshire, $1\frac{9}{10}$ in Herefordshire, $2\frac{6}{10}$ in Hertfordshire, $1\frac{9}{10}$ in Huntingdonshire, $1\frac{6}{10}$ in Kent, $2\frac{7}{10}$ in Lancashire, $2\frac{3}{10}$ in Leicestershire, $1\frac{6}{10}$ in Lincolnshire, $4\frac{9}{10}$ in Middlesex, $2\frac{1}{10}$ in Northumberland, 2 in Nottinghamshire, $1\frac{7}{10}$ in Norfolk, 2 in Northamptonshire, $2\frac{4}{10}$ in Oxfordshire, $1\frac{7}{10}$ in Rutlandshire, $1\frac{3}{10}$ in Shropshire, $4\frac{7}{10}$ in Somersetshire, $2\frac{4}{10}$ in Staffordshire, $1\frac{9}{10}$ in Suffolk, $1\frac{5}{10}$ in Surrey, $1\frac{1}{10}$ in Sussex, $4\frac{8}{10}$ in Warwickshire, $1\frac{5}{10}$ in Westmorland, $2\frac{4}{10}$ in Wiltshire, $2\frac{3}{10}$ in Worcestershire, $1\frac{8}{10}$ in Yorkshire, and $8\frac{8}{100}$ in Wales.

1061. If I have heard those figures rightly, Middlesex and Warwickshire seem to be the only two counties where the proportion goes above four per 10,000?—It is nearly five per 10,000 in Middlesex, and that is in two years and five months. I think this proportion has not been calculated to create the great degree of alarm which has existed about it.

1062. Mr. *B. Denison.*] Do you mean that there is only one-eighth out of 10,000 persons returned into Yorkshire, and that there are two-sevenths returned into Lancashire?—Yes; those are the facts.

1063. But these are released prisoners?—We have discharged on license so many; the absolute numbers are given.

1064. It strikes me that there is a greater amount of crime in this return in respect of Yorkshire than there is in respect of Lancashire?—No; with respect to the table which I have put in, and which gives the per-centages of license-holders who have been sent into different counties, it probably equally represents the proportion of prisoners who are left in the prisons. With permission of the Committee, I will make a few observations on the general results. I think it will appear, from a consideration of the foregoing returns, that a judicious system of discipline applied for a sufficient period to bring out its effects, will make a tangible impression upon very hard and obdurate materials. There can be no doubt that the convicts who have been released on license were, at the outset, both collectively and individually, worse than others of the criminal class, who, by the state of the law and the practice of its administration, escaped the longer terms of imprisonment, and were committed for the shorter ones; whilst the former have been subject to a course of discipline and training, the latter have been passing successive periods within a prison, and indulging their criminal propensities for corresponding

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

periods out of it. And what has been the result? The former, who are represented by the large number released on license from the convict prisons, are, as a general rule, endeavouring to regain their characters, and to become useful in their stations, whereas the latter, as a more general rule, continue to prey upon society. These indications more than confirm the opinion expressed in my Report for 1852, to the effect that 1,000 prisoners discharged from the convict prisons after periods of three or four years' corrective discipline and industrial training, would be far less injurious to society than 1,000 prisoners discharged at the doors of some of our large prisons, from which there issue, in some cases, as many as 8,000 or 10,000 in the course of a single year. The inference to be deduced from this is, that it is at this moment of far more importance to find a satisfactory answer to the question, what are we to do with our ordinary criminals? than to confine the attention to that section of them usually termed convicts. On this question I find the following remarks in the 31st Report of Mr. Clay, the chaplain of the Preston House of Correction.

1065. *Chairman.*] I believe he is a very experienced chaplain?—A very experienced man; it is his 31st Report.

1066. Is he a very able and intelligent chaplain?—Very much so, and he has always been so considered; Mr. Clay says, "The real ground for apprehension and alarm about discharged criminals, is not to be looked for in the 1,500 or 1,600 convicts annually liberated from the admirable reformatory institutions at Portland, Dartmoor, &c., but from the 70,000 or 80,000 offenders of different classes and degrees who are every year turned out of prisons in which crime is encouraged by corrupting association. There are more really 'dangerous characters' discharged from such prisons in a fortnight, than could be found among all the 'ticket-of-leave' men liberated from Portland, Dartmoor, Parkhurst and Portsmouth in a year." I entirely concur in the view which Mr. Clay takes of that subject. There is one point upon which I should wish to offer another observation, which is, that the letters received from the ticket-of-leave men and others acquainted with their circumstances, afford most satisfactory testimony of good feeling and good intentions, as well as of the success of the great majority in obtaining employment. So far from the measure which was introduced by the Act of 1853 having failed, it has undoubtedly been attended with a success which none but those who have had opportunities of seeing the ameliorating influences of just and considerate treatment, combined with religious and moral instruction, could have expected. I should wish also to take this opportunity of acknowledging with gratitude the efforts of a large body of magistrates, clergymen, and others, who have benevolently co-operated with the Government in lending a helping hand to many a poor man who but for their aid would have sunk under the difficulties with which he was surrounded.

1067. Do you refer to those men who have been released?—Those who have been released.

1068. Is that with reference to their obtaining future employment?—With reference to their obtaining employment.

1069. I suppose there have been great difficulties experienced in that respect?—They have had to contend against great difficulties, and that is another strong indication of the success of the measure. There was a very strong prejudice against them; almost the whole of the press took up the question. One of the metropolitan police magistrates and some others never lost an opportunity of denouncing them. The result was very materially to increase the difficulties which these men had to contend against, and but for the assistance which they received, they would have been overwhelmed by them.

1070. You say that very great assistance has been kindly rendered?—Very great assistance.

1071. Has that been the case throughout the country, so far as your observation has gone?—Throughout the whole country. There are very few exceptions where gentlemen have been applied to by the chaplains of the different prisons, that they have not responded to the application, and lent them a helping hand.

1072. Will you describe shortly the system of releasing a prisoner?—The steps taken in releasing a man are as follows: each prisoner during the long term of his confinement has had a certain gratuity awarded to him for his industry; the amounts of these gratuities have been explained by other witnesses; but the result is, that after three or four years' confinement they accumulate

mulate on an average, perhaps, 6*l.* or 7*l.*, which is paid in two or three instalments. In addition to this, the governor delivers to each man on his discharge a certificate, which I now hand in.

1073. Will you read it?—This certificate is filled in, "Certificate for well-conducted men discharged on license. A. B.; born at Islington; age 25; period passed; in separate or other confinement 10 months; on public works three years and two months; original trade or occupation, tailor; present trade, carpenter. These are to certify that his conduct under penal discipline has been as follows: on public works, good; in other confinement, very good. Given without erasure. Date, 1st May 1856. (Signed) W. C., governor of Portland Prison."

1074. That same form, *mutatis mutandis*, is given to each person?—Yes, if he has conducted himself well.

1075. Mr. *Adderley.*] Is that a certificate given merely on discharge with license, or on final discharge?—On pardon, as well as on license; it is given in both cases; a certificate of character is a useful thing for a man to have by him.

1076. *Chairman.*] Something has been said about the influence which the chaplains are supposed to use with regard to the determination of the period when a convict shall be recommended for license; is there any observation which you wish to make upon that point?—There exists an erroneous impression that the chaplains have been required in all cases to satisfy themselves that a convict is a reformed man before he is recommended to the Secretary of State for a license. A little reflection will show that such a condition would be both impracticable and unjust; impracticable, because no sufficient means exist of forming an accurate opinion of the religious state of any one, much less of a prisoner; and unjust, because a prisoner should not be deprived of any privilege he might gain on an opinion unsupported by evidence. In carrying out a system of discipline in which encouragement of good conduct is held out, insuperable difficulties would arise, if persevering efforts on the part of the convict to attain a certain object were acknowledged by the governor, and neutralised by the opinion of the chaplain. Such an opinion would be valuable; but there is little doubt that the ministerial usefulness of a chaplain would be greatly impaired if much weight were assigned to it in the distribution of rewards. It would besides be open to the objection of holding out a bonus to hypocrisy, which under present circumstances is not one of the sins of prisoners.

1077. You have intimated an opinion that the general results of the Act of 1853 have been beneficial?—I think very much so.

1078. Is that an opinion which has been gaining strength during the experience which we have had of the system, or did you entertain it more strongly at one time than you do now?—I entertained a very confident expectation of it at the commencement of the system, and I do not think that that opinion has been at all set aside by the result, but is confirmed.

1079. Do you entertain it now as strongly as you have done at any other time?—Quite as strongly.

1080. Has there been in your judgment time enough since the passing of that Act to enable us to form a very decided opinion as to the tendency and effects of the Act?—We have upwards of 5,000 cases to judge by, and nearly two years' and six months' experience of the operation of it, and as it only reaches at present something like 8 per cent. on the whole, I think there are sufficient grounds for forming a favourable opinion of it. I feel assured that at the commencement many of those with whom I communicated on the subject would have gladly compromised for 20 or 30 per cent. of recommittals. In the first year it was expected that almost every man would fail under the trial of a license in this country.

1081. In your opinion, will the successive stages of discipline now established afford a sufficient inducement to encourage the men to industry and good conduct?—I much doubt it, because obtaining release at an earlier period is by far the greatest inducement that could be offered to the men, and in that opinion I am supported by those who have the more immediate charge of the prisoners.

1082. You concur then with Captain Whitty upon this subject?—I refer to Captain Whitty, and also to the governors of the prisons and the chaplains.

1083. You heard Captain Whitty's evidence upon that point?—Yes.

1084. Is that your opinion also?—That is quite my opinion; if the penal servitude is to be carried out during the whole period of the sentence, I cannot

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

hope ever again to see the high standard of moral discipline maintained which has been established at Portland.

1085. Why?—Because there is not sufficient encouragement to induce the men to conduct themselves in the way in which they hitherto have done. If you will permit me, I will mention to you the state of discipline at Portland previously to the commencement of this system. An opinion on several points, having an important bearing on the effects of the discipline, may be formed by reference to the small number of punishments for prison offences, and the evidence of cheerful industry afforded by the large quantity and varied nature of the work undertaken and executed by prisoners. In the year 1853 the average daily number of prisoners being 1,041 under strict discipline, there was only one punishment daily to 750 prisoners; in the following year the average number of reports against prisoners was only one to 852 daily on an average number of 1,477 prisoners. It may further be stated, that out of a total prison population of 1,977 during the year 1853, the number of offenders against the rules was only 521, and that 1,426 convicts passed the whole year under that strict discipline without a single report for misconduct being recorded against them.

1086. Mr. *Adderley*.] Was there no mitigation of sentence under the previous system at Portland before 1853?—Yes; they were then under the old system; and I may further remark, that it shows the state of discipline to which that prison had been brought by Captain Whitty and those who had succeeded him at Portland, when I say that, during one of those years, the men were under the most painful suspense as to their future destination; the report got among them that they were not to be transported, but they were not at all aware of the time that they would be required to serve; and, notwithstanding that, they had such confidence in their officers, and that the Government would keep faith with them, that they continued to behave in a most exemplary manner.

1087. *Chairman*.] What is the distinct inference which you wish the Committee to draw from these facts?—That if the men have not the inducement of a remission held out, they will not struggle so hard to gain smaller privileges by industry and good conduct.

1088. You say that those were the results under the system as it existed, and that, in your judgment, the present system, which does not hold out the same motive for hope, will not be attended with equally favourable results?—I should fear not. An instance of that occurred during the last year; about the period when men under sentence of seven years' transportation would have embarked for the colonies (which was two years from the date of conviction), those men who were under sentence of penal servitude for four years became very uneasy, and there was a serious outbreak at Portland, which was only repressed by very vigorous measures at the time. It was a satisfactory indication of what the discipline was, when I mention that those men who were under sentence of seven years' transportation, and who were to be released at the end of three years, almost without exception, stood by the officers; and I believe it was even discussed among them, whether they should not take the law into their own hands, and repress the penal service men, who were inclined to be rebellious.

1089. Is there any modification of the new system which you would suggest as the result of your experience?—I consider from what I heard when the Act of 1853 was under discussion, that it was intended the sentences to penal servitude should be deemed equivalent to the sentences to transportation; and therefore, as a general rule, the men would have no claim for the same amount of remission which had been given when the sentence was commuted from transportation into imprisonment. But it is of importance to discipline that there should be a proportionate remission of these long sentences. If in passing sentences, a maximum sentence were passed, with an understood minimum, that is to say, supposing four years were considered to be a proper term to represent seven years' transportation, that then a maximum sentence of five years should be passed, so that there might be twelvemonths which might be remitted in certain proportions as a stimulus or reward for good conduct. The same practice has long been followed with respect to sentences of seven years' or ten years' transportation; the maximum was the extent of the sentence, the minimum one-half of it, passed in a prison.

1090. Then you propose that a sentence of five years should be passed?—Yes, with the intention of carrying out a minimum of four. It would not, of course, interfere with the Queen's prerogative of pardoning at any period of the sentence;

sentence; but if such a sentence were passed, with the understanding that the practice of commuting the sentence of five years into four years, was distinctly recognised by Parliament, it would relieve the Secretary of State from responsibility, and would work well for the discipline. It would have the further good effect that the longer sentence would have a more deterring effect out of doors.

1091. But in whatever way it is to be effected, your opinion is that a change is in itself desirable, as supplying under the new system that motive of hope which existed and produced these good effects under the old?—Yes; and I do not hesitate to say that it is an essential thing, because, as these men are to be released in this country, all interests are concerned in releasing them with industrious habits and good intentions, and to a certain degree reformed.

1092. Have you made it your business to inquire into the systems adopted in other countries, in order to obtain light upon this question of releasing convicts on license?—Not to any great extent.

1093. Have you any information which you can give the Committee with regard to that question?—I can state generally, that with respect to France, I believe that there existed a power to subject certain categories of criminals to some such restrictions as our tickets of leave. They were released *provisoirement*; I believe, however, it has not been found to answer the purpose. My impression is, that it was the practice to assign a certain district to a prisoner released in this way, and to maintain a close superintendence of the police over him, very much on the same plan as that which is maintained over convicts on tickets of leave in Van Diemen's Land and Western Australia. The natural effect of this would be, in a country not accustomed to convicts, to deprive the men of the means of obtaining employment; that, of course, would render men reckless; they probably would commit some fresh crime, or endeavour to escape from the district, and the penalty of a revocation of the license and its consequences would follow.

1094. Within what kind of district do you understand that they are confined in France; a particular town or a particular department?—I should think it was a particular department within which they should live.

1095. Are they small districts?—Of that I am not aware.

1096. Is it on account of that limitation that you think the system objectionable?—I think the system of maintaining a superintendence over the men objectionable on that ground, and on the previous consideration of the subject; I always strongly objected to maintaining any close supervision over our men when they were released, feeling that it would very much affect their prospect of obtaining their livelihood.

1097. You are against limiting the district?—Certainly; I think it a great object to disperse the men as much as possible, and to let them be absorbed in the labour market of the country, wherever they may be.

1098. Then, would you generally make it a license for the whole of the United Kingdom and the Channel Islands?—I think so.

1099. The words of the 9th section of the Act of Parliament are, "a license to be at large in the United Kingdom and the Channel Islands, or in such part thereof respectively as in such license shall be expressed;" do you think it better, as a general rule, to make it a license for the whole of the United Kingdom and the Channel Islands?—The only exception which has ever occurred to me as offering an advantage would be, to prevent the pickpockets and others from large returning to large towns, and, to a certain extent, that has been practically acted upon; for instance, a few of the London pickpockets have been excluded from the counties of Middlesex, Kent, and Surrey.

1100. In how many cases should you say?—Very few.

1101. Have you any notion about how many?—I should think not 40, altogether.

1102. Mr. *Wickham*.] If you were to exclude them from London, they would go to Manchester or Liverpool, would they not?—Yes; I rather think that the Secretary of State has determined that he will not have any further restrictions. I have so understood.

1103. *Chairman*.] You do not advise any further restrictions?—I do not think there should be any further restriction, excepting that to which I have alluded; but that is open to the objection which has just been urged, that it drives the man to some other place; therefore I do not think it would be well to act upon it as a general rule; and probably the best way of dealing with the whole class would

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

would be to let them be at large in the terms of the Act, within the United Kingdom or the Channel Islands.

1104. Would you go beyond that; it has been suggested here, that it would be expedient to modify the Act to such an extent as to have a license to go beyond those limits of the United Kingdom and the Channel Islands?—I think it would be very fair to let them go to any of our colonies; at present, the restriction upon them is very inconvenient. Many of them have the means of emigrating to Canada, or to Australia, but they would not be safe under the license within the terms of the Act.

1105. Would you suggest a modification of the Act of Parliament in this respect?—I should. I think it would be of advantage to include our own colonies; to give a licence to be at large within our own colonies, or in Great Britain. There could not be any objection to that, that I am aware of.

1106. It involves questions of policy, I suppose?—Entirely so, and I have no doubt the limitation was introduced with that view.

1107. Is there any other light from foreign countries that you have obtained, which you can give the Committee?—Upon that point I have nothing further to state.

1108. In your opinion is it desirable to maintain a more effective surveillance of the men released on license?—I think not, for the reasons which I have already stated.

1109. Have you formed an opinion as to whether it is expedient that steps should be taken for the establishment of a new penal colony?—Mr. Elliott has spoken before the Committee upon that subject with so much more authority than I could speak, that I should wish to refer the Committee to his opinion. I would merely state that I entirely concur in what he says as to the difficulties to be apprehended from any attempt to found a new penal colony; the difficulties are not so much in establishing a colony, and in employing the men there, but in absorbing the labour afterwards. No difficulty arises till the period of the release of a convict; then comes the question of whether he can find employment, and whether he becomes a good member of society, or a pauper, or is likely to cause fresh expense and trouble.

1110. You mentioned one change in the law which you would suggest, namely, an alteration of the 9th section of the Act of Parliament, as to the limits within which the Secretary of State should be empowered to grant a license; is there any other alteration of the existing law which you would suggest as advisable?—I have no other change to suggest; the Act of 1853 substitutes penal servitude for transportation, and defines the terms of each; the practice of the courts might differ; for example, it would be quite competent for any judge to pass solely sentences of penal servitude, the terms of which correspond with the periods of transportation, and are prescribed in the Act; therefore I do not know that any change in the law would be required on those grounds, even if it were determined to suspend sentences of transportation, and substitute those of penal servitude.

1111. What is the change in the practice which you would advise?—That would depend upon the decision of the Government with respect to transportation; if difficulties occurred in carrying out transportation, or if it were found objectionable on other grounds, it would be competent to pass sentences of penal servitude instead, to be carried out in Great Britain, Gibraltar, Bermuda, or Western Australia.

1112. Have not the judges now the power, with regard to terms of 14 years, or upwards, to give an alternative sentence of transportation or penal servitude?—Yes, they are all defined in the Act.

1113. Under 14 years there is no power of passing sentence of tranportation?—There is not; but the periods of penal servitude corresponding to the original terms of transportation are laid down in the Act; six years' penal servitude represent 14 years' transportation, and so on.

1114. Then your suggestion is, that with regard to those cases where there is still an alternative, the judge should pronounce a sentence of penal servitude, and not pronounce a sentence of transportation?—It is a question of policy, but would not require any change in the Act.

1115. You mean that he has power under the Act to do that now?—Yes.

1116. Mr. *Massey*.] Is it your opinion, that prisoners sentenced to penal servitude should, with regard to the remission of their sentences and the mode of

of treatment in different prisons, be placed precisely on the same footing as prisoners under sentence of transportation; does your evidence go to that extent; you are of opinion, that withdrawing from a prisoner under sentence of penal servitude the motive of hope is injurious?—Yes.

1117. Suppose you placed a man sentenced to four years' penal servitude on the same footing as a prisoner sentenced to seven years' transportation, that is, with a view to having a license at a certain period of his sentence, do you think that that would be desirable; that would place him precisely on the same footing as a prisoner under sentence of transportation?—There are certain periods of penal servitude in the Act which represent transportation.

1118. A man sentenced to four years' penal servitude must serve his time?—Yes.

1119. Instead of serving his time, would you allow him to have a license to go at large after a certain period of probation, as you allow a man under sentence of transportation?—That is what I think is so great an object, namely, to have that kind of sentence which will admit of a remission of a portion of it on good conduct. The evidence which I gave just now on that point was to this effect, that if a sentence of five years were passed instead of four, and if Parliament distinctly recognised the practice of the Secretary of State generally remitting one-fourth of that sentence on good conduct, the same certainty of punishment would follow, because there would be a minimum of four years, and a maximum of five; I think it would have a better effect out of doors as well as within the prison.

1120. But would not it be rather, so to speak, a fraud upon the prisoner; it would leave him precisely in the same situation as he is in now?—It would soon become generally known that a prisoner would have to serve at least four years, and might serve five.

1121. Mr. *B. Denison.*] Would it be at all necessary to have an Act of Parliament for that?—No.

1122. Has not the Secretary of State the power now of remitting any part of a penal sentence?—Yes.

1123. *Chairman.*] Having the period fixed, the Secretary of State, of course, would have the general power of remitting any portion of it?—Yes.

1124. Mr. *B. Denison.*] Was the rule that the whole period of penal servitude should be really carried out, anything more than a rule laid down by the Secretary of State himself?—It was the intention of Parliament, I believe, that the sentence of penal servitude should be carried out.

1125. Had not the Secretary of State the power of remitting any part of a sentence to penal servitude for four years?—Yes.

1126. And has yet?—And has yet.

1127. Then the rule which was issued was only a rule issued from the Secretary of State's office?—It was so.

1128. You said that you thought it would be desirable that there should be a minimum and a maximum; what would be the advantage of a minimum?—Because the certainty of punishment is always considered to have a very beneficial effect, as far as repression of crime goes; the certainty of punishment is always held to be of importance; if the minimum period were uncertain, the prisoners might speculate upon getting a very short period of confinement, instead of a long one.

1129. Have not some of the judges mentioned that they really do not know what sentences will be carried into effect?—That I do not know.

1130. *Chairman.*] Have you formed an opinion as to whether it would be advisable to introduce sentences of long imprisonment, before having recourse to a sentence of penal servitude?—I think it would be of great importance to exhaust all ordinary sentences of imprisonment before having recourse to a period of penal servitude.

1131. Will you explain your meaning?—I incidentally alluded to that point in one of my former answers, in which I showed the great number who were sentenced to transportation, and the very limited number who were sentenced to periods of imprisonment exceeding one year. The void which, I think, requires filling up, is the period between one year's imprisonment and four years' penal servitude; I think if more sentences of moderate periods of imprisonment were passed, it would be an advantage.

1132. Do you mean by "moderate periods," two or three years?—Perhaps

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

not exceeding two years. As the practice formerly existed, it was virtually almost a step from six months' imprisonment to seven years' transportation; all second convictions for felony, however trifling they might be, were visited as a general rule with seven years' transportation.

1133. Do you think that more sentences of one year's imprisonment, and eighteen months', and two years', and so on, might be advantageously introduced?—I think in the administration of criminal justice there would be a more just gradation of punishment if such sentences were resorted to.

1134. Have you any information to give the Committee upon the practice adopted in America of substituting imprisonment for transportation?—In America they have no sentences of transportation, and the graver offences are visited with three, four, and five years' imprisonment. I do not myself see any great objection to the same practice being adopted here; but it is a question of very grave importance in the administration of justice, and perhaps the most important that will receive consideration from this Committee. Transportation has had for so long a period a hold on the public mind; and it has been so very convenient to get rid of criminals altogether, that it should not create surprise if the prospect of relinquishing it would meet with great opposition. So far as my own experience goes, however, I consider that transportation has in a great measure ceased to have the deterring effect which it had in former times.

1135. You are aware that one very strong argument which has been used for transportation has been, that no sentence ever possessed the same amount of terror for prisoners, and those who might be disposed to follow illegal courses?—I have never held that opinion myself; from knowing the feelings of a very large body of men, and being generally aware of the circumstances, I am under the impression that the great amount of distress which is shown in court when a sentence is passed, arises from the severance of the ties which exist between a criminal and his wife, family, and friends. I have seen more distress and agony exhibited by the side of an emigrant ship upon friends taking leave of each other, than I ever saw or heard of in court at the passing of a sentence of transportation, and yet emigration is not stopped by all the distress that is witnessed by the public.

1136. I understand you to be of opinion that that argument is pushed too far?—I think so; most of the men at Portland at the time of the passing of the Act of 1853 were very much disappointed at the prospect of being imprisoned for a short time longer, and then released in this country, instead of having the promises of being transported fulfilled.

1137. The gold discoveries had been heard of then?—They had; but the same feeling existed before.

1138. Have you any information to give the Committee as to the comparative expense of transportation as it existed before the passing of the Act of 1853, and of the present combined system of penal servitude and transportation?—This subject was under consideration in 1851, and with your permission I will lay before the Committee some of the calculations. Assuming that an average period of three to four years' imprisonment were substituted for the then sentences of transportation, the following might be assumed as data on which to calculate the maximum number who would be accumulated, and the expense. First, as regards Great Britain: If, as an assumed maximum, we take 3,000 as the number sentenced annually (and that exceeds the number which are usually sentenced), and that an average period of four years' imprisonment were to follow, the sentences of imprisonment, extending from the shortest term of penal servitude to life, would be 12,000. Of those there might be about 2,000 in separate confinement, and 10,000 on public works and in invalid establishments. The expense of an assumed maximum of 12,000 prisoners sentenced in Great Britain, of whom one-sixth would be in separate confinement, would be as follows: the maintenance of 2,000 prisoners in separate confinement, at 24 *l.* per head, would be 48,000 *l.* The maintenance of 7,500 able-bodied on public works, at 23 *l.*, 172,500 *l.* The maintenance of 1,500 invalids, at 25 *l.*, 37,500 *l.*; and the maintenance of 1,000 juveniles, at 20 *l.*, 20,000 *l.* The gross total annual cost of 12,000 prisoners would therefore be 278,000 *l.* From this must be deducted the earnings of 12,000 prisoners, which I take at the very low figure of 12 *l.* on the average per annum. On public works those men would, most of them, earn about 20 *l.* per head, but in separate confinement they would not earn more than 7 *l.* or 8 *l.*; 10 *l.* per head at the most; therefore, the average of 12 *l.*

12 *l.* per head may be considered very low. The value of the labour would amount to 144,000 *l.* The net cost to the country, therefore, would be 134,000 *l.*; the net estimate for 1,200 females, 19,200 *l.*, and that would give a net cost for 13,200 male and female prisoners of 153,200 *l.* In the foregoing calculations it is assumed that a proportion of the prisoners would be employed on public works at Gibraltar, Bermuda, and Western Australia in the following proportions:—Gibraltar and Bermuda, 2,300; Western Australia, 550; that is, 2,850. Assuming an average period of imprisonment of three years at each of these places, there would be an annual relief of one-third of these numbers. The average expense of passage to Bermuda and Gibraltar would be about 7 *l.* 10 *s.*; this for 800 prisoners would amount to 6,000 *l.* The expense of the voyage to Western Australia for 200 prisoners, at 25 *l.*, would be 5,000 *l.* The total annual expense for transport of convicts to Gibraltar, Bermuda, and Western Australia, to be added to the maximum calculation, would be 11,000 *l.* I have an abstract of the whole number, which, including 5,250 men for Ireland, may be added, a constant number of 5,220, and an expense of 57,750 *l.* The following is an abstract of the foregoing estimates of an assumed maximum number of 17,250 prisoners sentenced in Great Britain and Ireland: the gross estimate for 12,000 prisoners in England and at Gibraltar, Bermuda, and Western Australia, is 278,000. The gross estimate for 5,250 prisoners in Ireland, is 57,750 *l.* The estimate for transport services to Bermuda, Gibraltar, and Western Australia, as before, is 11,000 *l.* The gross cost would be 346,750 *l.*; and the estimated cost for 1,200 females, 24,000 *l.*, which will bring it up to 370,750 *l.*

1139. Sir J. *Pakington.*] That is the gross cost of the new system?—Yes; deduct the earnings of 12,000 prisoners, at 12 *l.* per head, as before, 144,000 *l.*; deduct the earnings of 5,250 prisoners in Ireland, at 5 *l.* per head, 26,250 *l.*; deduct the earnings of 1,200 females, at 4 *l.* per head, 4,800 *l.*; that is, 175,050 *l.*, to be deducted from the 370,750 *l.*, leaving net 195,700 *l.* Now, the gross estimate of the expense of the system of transportation, as it stood some years ago, for 15,720 prisoners, was 587,294 *l.* The real cost to the country, after deducting the value of their labour on public works, was 419,476 *l.* I should mention, that, in estimating this as net cost of adopting imprisonment instead of transportation, I do not include any of the expenses which now are going on in the convict colonies, and which, for some few years, will still be required for public and other purposes; but I look to it, that in a few years all expenses on the ground of transportation ought to cease in those colonies when no more convicts are sent to them, and that the absolute expenses which would be incurred in penal establishments at home and at Gibraltar and Bermuda would be all that would be chargeable. The foregoing is an estimate of numbers calculated on data as they stood in 1851; namely, 3,000 to be annually sentenced to four years' service. I do not think, however, the numbers would accumulate so as to reach 17,250 in Great Britain and Ireland, under any circumstances. I am of opinion that the present establishments at home and at Gibraltar, Bermuda, and Western Australia, would accommodate all the convicts likely to be on the hands of the Government. In connexion with this point, which would be one of great importance in any change of system, I would beg leave again to submit the few observations which occur in my Third Report for 1849: "There can be no question that if it be necessary from any cause to carry into effect probationary periods of discipline in this country, and that, in consequence, a body of 10,000 or 12,000 men are to be maintained by the Government, they ought to be usefully employed; it is a confiscation of labour, in which the Crown has a vested interest. This, as a matter of finance, will not in the opinion of some be regarded as the least of the questions to be considered, and by all will be acknowledged to be of some importance. One of the objects at Portland is to show to what extent this can be done consistently with other and more paramount considerations; and when the system shall have been tested by experience, I hope, with the co-operation of the Admiralty and Ordnance authorities, to be enabled to render the labour in the dockyards and arsenals much more useful and valuable than it ever has been." The experience since gained at Portland has more than realised my expectations, both as regards the moral improvement of the men and the amount of work executed; the ascertained value of the work performed by the convicts at that prison for the first four years was as follows: in 1849, 7,214 *l.* 6 *s.* 11 *d.*; 1850, 14,067 *l.* 16 *s.* 7 *d.*; 1851, 20,541 *l.* 15 *s.* 5 *d.*; 1852, 20,568 *l.*

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

1140. Mr. *Adderley.*] To what number of prisoners?—The prisoners varied during those years.

1141. About what number?—During the last of those years there were 800; during the former years there were not so many. I can, however, extend this return. In the year 1853 there was an average of 1,040 prisoners, and the estimated value of the labour was 26,500 *l.*; in the year 1854, the average number of prisoners was 1,470, the estimated value of their labour was 40,550 *l.*; and in the year 1855 there was an average of 1,480, and the estimated value of their labour was 37,980 *l.*; which will bring the annual average to nearly 26 *l.* per head. I would take the opportunity of mentioning one circumstance which has frequently been referred to, namely, the great advantage of establishing prisons in agricultural districts, and employing the prisoners in agriculture. Now, carrying on agriculture is an excellent employment as regards the moral training of the men, but so far as profit is concerned, it is nothing to be compared to the labour at public works, such as that which is going on at Portland, or the employment in the arsenals and dockyards of Portsmouth and Woolwich; it is, however, an excellent thing to fall back upon, so far as regards the moral training. We have had some experience at Dartmoor; but so far as profit is concerned, it is not at all favourable.

1142. Sir *J. Pakington.*] It is not self-supporting?—No.

1143. You are under some difficulty as to soil, are you not?—Yes; it would be better if we could grow flax and potatoes.

1144. *Chairman.*] Have you any information to give us as to measures for assisting discharged prisoners?—Unless a prisoner has some assistance on discharge, such as that which has been extended by many benevolent persons to prisoners released on license, he is placed in the greatest possible difficulty; and I do not feel a doubt that the number of re-committals to ordinary prisons, which reach a far larger number than those of the license-holders, is due to that cause, of the men being discharged perfectly friendless into their old haunts, where they are obliged to fall back upon crime for a means of subsistence. In France and other countries this question has been brought forward by many benevolent and distinguished individuals. The Government in France have recognised its necessity, and, though no exact plan has been determined upon, it is still under consideration, and is likely to be organized upon some footing which will give material aid to prisoners on their release, and probably diminish the bad effects which follow from their having no means of subsistence and existence. It is especially necessary with respect to juvenile criminals, but the same observation will apply, in a great degree, to adults. The voluntary efforts of benevolent persons are wholly insufficient to meet the necessities of the case, and can accomplish but a very small portion of what is required. They indicate a void in our social arrangements which requires to be filled, and the great success of the existing institutions which have been formed proves their utility, and the urgent necessity for increasing the number.

1145. You mean the voluntary institutions?—Yes, voluntary institutions. If it were only on the low ground of financial expediency, the Government would do well to second and stimulate these humane efforts. Many a man, whether from having been brought to see the error of his ways, or from the dread of punishment, would gladly avoid coming again within the grasp of the law, if it were within his power to maintain himself by honest industry. Without friends or the means of employment, what are they to do? Sir William Colebrooke, late Governor of Barbados, who is a very distinguished and a very benevolent man, remarked on a recent occasion in the colony, "There is a duty which society owes to the discharged prisoner which, until of late years, may have been too much neglected in all countries. The taint of crime is not readily removed, and the difficulty of regaining a place in society, when once forfeited, has caused but too many to relapse into evil associations. Some interposition is, therefore, needed in the way of prevention,"

1146. Mr. *Adderley.*] Where do those remarks of Sir William Colebrooke appear?—I received them from him in a paper which he sent me.

1147. We have not got them in any despatch?—No.

1148. *Chairman.*] Have you any suggestions of a practical nature to lay before the Committee, with a view to supplying what you have termed this void in our system?—No precise plan occurs to me; it is too large and important a subject to be disposed of hastily; but in this country, where there

are

are so many benevolent institutions for almost every possible contingency or evil that can happen to humanity, I think if it were generally known that there did exist this great desideratum, the means would be found by private individuals of assisting prisoners on discharge. I am satisfied that it is one of the most important measures in the social system which is now required; the only practical suggestion which I could make, would be that some assistance should be given to the societies which might be formed, and certified to be working any amount of good among that class of prisoners.

1149. Assistance from public funds, you mean?—Assistance from public funds, in the same way that assistance from public funds is given for educational purposes and other objects. My own opinion is, that there would be less expense in the punishment of crime if there were more expense incurred in the prevention of it.

1150. There is a matter on which Captain O'Brien refers for information to you, with reference to the women who are leaving Brixton, and who we understand are now to go into an institution at Fulham?—The Refuge at Fulham will be devoted to one of the objects connected with the discipline of female convicts.

1151. What information can you give the Committee with regard to the proposed institution at Fulham?—The Committee being aware of the system of discipline pursued at Millbank and at Brixton, with reference to the females, I would merely observe, that whatever difficulties might arise on other points connected with them, it is obvious that those which would occur on their discharge, require the most earnest consideration. Viscount Palmerston, when Secretary of State for the Home Department, communicated to me his views upon this important question, and directed me to submit to him some plan for disposing of the females after undergoing a certain period of their confinement; I gave my best consideration to the subject, and addressed to Mr. Waddington the following letter, which will explain the views of Lord Palmerston, as I have embodied them in it.

1152. What is the date of your letter?—The 16th of December 1853. "Sir; I have to acknowledge the receipt of your letter of the 16th ultimo, acquainting me with reference to the disposal of female convicts from Brixton, that Viscount Palmerston is of opinion that it would be very desirable to place women in some intermediate condition between close imprisonment and discharge on license, and that his Lordship is not without hope that some means may be devised for the formation of some establishment under the control of the Government, in which they might, after ending their close imprisonment, be put under qualified restraint, to occupations of industry, the produce of which would partly pay for their support, while the habits, which such occupations would create, would tend to put the women in a way to earn their livelihood honestly, after being finally discharged, conveying also Lord Palmerston's request that I will endeavour to submit some scheme for carrying the suggestion into effect. In reply, I beg to state, that, having given the subject full consideration, it appeared to me that if an establishment, under the immediate control of the Government, were formed, it would necessarily be so closely identified with the prison, that it would not be calculated for securing the means of employment on discharge or disposal by emigration. I therefore sought to avoid the difficulties inseparable from a Government establishment, by submitting a proposition to the corporation of the Refuge for the Destitute, an old established and most valuable institution, which has, for many years, been pursuing a course of unobtrusive practical usefulness, and whose objects are now entirely confined to females of a class similar to those who will be discharged from Brixton; this establishment is at Dalston. With a view of ascertaining how far the corporation might be induced to entertain the question, I addressed a letter to the secretary, Mr. S. Gurney Hoare. I beg leave also to state, that at the request of the secretary, I attended a meeting of the corporation of the Refuge, and from what passed during the discussion, I have reason to hope that an arrangement may be made which bids fair to be a satisfactory solution of some of the difficulties which will attend the disposal of women removed on license from prison. There will, however, be many women who, though they might not be able to withstand the temptations of London and other large towns, would do well if placed under more favourable circumstances for entering on a new course of life. In any general arrangements, therefore, with respect to the disposal of females, I would again earnestly impress the importance of sending a proportion (if

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

it were only 150 to 200 in the course of the year) to Western Australia." Although the principle of this mode of disposing of female prisoners was approved by the Secretary of State and the Lords of the Treasury, some difficulties, chiefly of a financial nature, occurred in the discussion of it, and the contract with the Refuge for the Destitute was therefore given up, much to my regret. The possibility of forming a Government establishment of a less penal character than an ordinary prison, with a view to facilitate the women being eventually disposed of to their own advantage and that of the public, therefore, came under consideration. After much discussion of the subject, and extended inquiries, some premises, situated on the King's-road, at the entrance of the town of Fulham, known by the name of Burlington House, were purchased on advantageous terms. The original buildings are undergoing alterations, and will shortly be ready for the reception of 40 to 50 of the most exemplary of the prisoners from Brixton. A chapel and accommodation for about 150 additional females will be completed in the course of the summer, and during the present year the establishment will, I trust, be in working order. It will, however, I fear, be vain to expect the same good results that might have been anticipated from the Refuge for the Destitute. I refer particularly in this remark, to the loss of all chance of disposing of them at once by emigration. Of course, it is impossible that the Government could interfere in any scheme of emigration as applied to persons of that class.

1153. And that was one feature of the system at Dalston, was it?—There would have been no objection to the corporation of the Refuge, after having them in their establishment for six or twelve months, sending them out as emigrants in the way they do their own women; but that difficulty having arisen, it must be submitted to; the first prisoners will be removed to the Refuge at Fulham to-morrow.

1154. How many?—We shall get 20 to-morrow, and an additional 30 shortly afterwards.

1155. How long have those women been at Brixton?—Most of them have been about three years under discipline.

1156. Have you selected them according to the goodness of their behaviour?—They have been selected according to their character, behaviour, and term of sentence unexpired. I was anxious not to receive anybody into the Refuge at Fulham who had more than 12 months to serve. I would ask permission to submit to the Committee the opinions of Mrs. Martin and Mr. Moran upon the Fulham Refuge. Mrs. Martin, the superintendent of Brixton prison, in her report for 1855, thus expresses her opinion of the discipline now in course of being established: "I cannot conclude my report without expressing my deep thankfulness at the encouraging prospect held out to our prisoners in the three stages of discipline recently established, especially in the last stage, the removal of the most improved convicts to Fulham Refuge. It is, indeed, a most important step, fraught with benevolence to the prisoner, and good to the community. Improvement may be strongly indicated in the first and second stages, but it is in the third alone that we shall be able to test its reality, and send them forth with a reasonable expectation that they are permanently reformed." Mr. Moran, the excellent chaplain of that institution, in his report of the same year, also alludes to the recent changes; he states, "The formation of a Government establishment at Fulham will, I have reason to hope, be attended with very happy results. Begun and carried on as it has been in the spirit of true Christian philanthropy, I have no doubt of its ultimate success. I am thankful that the views to which I ventured to give expression last year on both the above arrangements, proved to be in accordance with your own. The prisoners seem very grateful for the efforts made for their improvement, and appear anxious, as a body, to give a proof of their gratitude by orderly and submissive conduct, and I trust they are resolved to try and earn their bread by honest industry for the time to come." It is not only satisfactory, but it furnishes substantial ground for anticipating a favourable result to find that officers so deeply interested in the welfare of the prisoners look forward to their labours being crowned with success. I do hope that a measure of success will attend it; but our difficulties will commence on the discharge of the women from prison, and those difficulties chiefly arise from the accommodation into which they can be received in refuges and other benevolent institutions being so very limited. The Elizabeth Fry Refuge is an excellent place;

place; the Refuge at Dalston, in which Mr. Gurney Hoare takes a great interest, is another. There is another at Manor Hill, Brompton, under Miss Neave.

1157. Has the number of such refuges been increasing or otherwise?—I think so; I think there is a tendency towards establishing similar institutions and reformatories all over the country, and a most important movement it is.

1158. All those institutions of course being supported by voluntary contributions?—By voluntary contributions.

1159. You mentioned to the Committee one or two points in which you thought that the Act of 16 & 17 Vict. was capable of amendment; is there any other particular besides those which you have already specified, in which you think it desirable that that Act should be altered?—I think not. The provisions being full as regards leaving it to the discretion of the judge to sentence a man to a certain period of penal servitude or to transportation, there is sufficient provision in the Act to allow of any alteration in the practice which might be expedient.

1160. You say that you think a different practice might be adopted under the Act, but that the Act itself is large enough in that respect?—Yes; the only enlargement that occurs to me would be to render the license available in the colonies.

1161. Having expressed your opinion with regard to the Act, is there any further suggestion which you would make for an improvement in the mode of carrying out that Act?—There is none that I can suggest, excepting it were recognised by the Government to act more entirely upon sentences of penal servitude, instead of those for transportation; and that would be limited by the means of disposing of men under sentence of transportation, as well as by the question of whether transportation is or is not a deterring punishment. There is this anomaly now to deal with, that the heavier sentence of transportation is, I believe, much less regarded by the convicts than the sentence of six years' penal servitude which represents it.

1162. What do you suggest about that?—I have no suggestion to make but what I have just mentioned. It would be a matter of policy whether transportation should be continued on the existing plan.

1163. Is there any other suggestion with which you can favour us?—None that I am aware of.

1164. Sir *J. Pakington.*] With respect to the establishment at Fulham, you seem to speak of it as a refuge, rather than as a prison?—It was an object as far as possible to divest it of a prison character, excepting as regards the safe custody of the women.

1165. Then I presume you mean to send to that refuge only the best conducted women?—Only the best conducted women.

1166. How would you deal with the other portion of the women, namely, those who are not the best conducted, during the last period of their sentence?—They are subjected to the classification which has been explained by Captain O'Brien, and which is laid down in the rules. We begin by the severest discipline which the Secretary of State thinks should be enforced upon female convicts; that is to say, they are put at first to picking oakum, instead of being allowed to work, and they are not allowed to wash or to cook; but progressive changes go on from the first. They go through the lower stage at Millbank in four months; they then go into an upper class, where the privilege of work, instead of picking oakum is afforded; they then get to Brixton, where there are three classes established, each with progressive stages of amelioration.

1167. I presume that in the case of the class of women to whom I refer, they would in fact be detained at Brixton till the end of their sentence?—Yes, just the same as those at Fulham, only that those from Fulham might be more confidently recommended for private service, or for other openings, than those who had been kept at Brixton, and who had not conducted themselves so well.

1168. And if the system of tickets-of-leave is at all adopted with regard to women, they will be given to those at Fulham?—I should think so.

1169. Are you favourably disposed to giving tickets-of-leave to women, if well conducted?—I think it would be a wholesome restriction; I found that several of the authorities in France, whom I consulted on the subject, were much disposed to approve of that mode of carrying out a sentence; that is, by granting a remission.

1170. You have stated, I think, that the establishment at Fulham will accommodate about 180 women at one time?—Yes.

Colonel *J. Jebb*, R. E., C.B.

5 May 1856.

1171. And also that the intention is to detain them there about a year?—Yes.

1172. Do you think that that establishment at Fulham for 180 prisoners will be sufficient to accommodate all the women who, by good conduct, would be entitled to go there?—I was anxious to make it a matter of experiment in the first instance, and not to create a greater amount of accommodation than we were likely to require; but there exist the means of increasing the establishment to the extent of doubling it if necessary.

1173. How soon will that establishment be in full operation?—It will not be in full operation, I think, till the autumn; but it will commence to-morrow.

1174. You will send women there to-morrow?—Yes.

1175. Mr. *M. Milnes.*] You have been lately in France?—Yes.

1176. Did you inquire into the state of secondary punishment in that country?—Not particularly; my object was to ascertain the discipline applicable to females, and what was their system of granting licenses and treating juveniles.

1177. Did you find that the question of secondary punishment was settled there, or that the difficulties of it were still felt, and that it was undecided?—I think it was somewhat undecided; there appeared to be a difficulty in France in altering the law. I do not think that, generally speaking, they were satisfied with the operation of the whole of their system, especially as regards juveniles.

1178. Mr. *S. Fitzgerald.*] At present the convict establishments abroad are only, I believe, at Gibraltar and Bermuda?—At Gibraltar and Bermuda and Western Australia; Gibraltar and Burmuda may be considered as two establishments analogous to Portland and Portsmouth.

1179. Western Australia is for the reception of transported convicts?—Yes.

1180. Has your attention been called either to the possibility or the propriety of establishing some other places as depôts for convicts similar to those at Gibraltar and Bermuda?—There are not convicts enough to furnish men for them; but I have always been of opinion that wherever useful public or national works are required, if the work is of an extent that will employ 400 or 500 men, and require five or six years for its execution, it would be worth while to put up an establishment for the purpose of executing the work.

1181. And employing upon those works the prisoners who would otherwise be detained in this country in penal servitude?—Precisely so; only that I have always regarded the public works at home as requiring all the convict labour that could possibly be devoted to them.

1182. Mr. *M. Milnes.*] Do you anticipate that the necessary public works which we are likely to have at home would be sufficient to absorb all the convict labour that could be acquired?—For many years the whole of the convict labour might be absorbed. The works necessary at Portland will occupy 1,500 or 2,000 men for 20 years. Besides the breakwater and the formation of a harbour at that point, there are the fortifications, dock-yards, roads, and the different works which are necessary to constitute a large naval station.

1183. Mr. *S. Fitzgerald.*] Would not there be a greater facility in the case of convict establishments such as you have mentioned abroad for convicts being absorbed into the population than there exists in England; say in the colonies?—That refers exclusively to transported convicts; it is of the greatest possible importance in a colony to which convicts are transported that there should exist a sufficient demand for labour to absorb them all at the expiration of their sentences; otherwise those establishments would become precisely like Gibraltar or Bermuda, from which all the convicts are obliged to be removed at the expiration of their sentences.

1184. At present the prisoners who are sent to Gibraltar and Bermuda at the expiration of their sentences are brought back here?—They are brought home, and released.

1185. If they were employed upon public works in the colonies, and, instead of being brought home, were to be set free there, would not there be a greater facility to them either to obtain employment in the colonies, or to obtain employment in foreign countries closely adjoining those colonies?—That question was moved some years ago by Lord Grey, who sent a circular to the whole of the colonies, impressing upon them the advantages which might result to them from receiving convicts with tickets-of-leave, or employing convicts generally, but without a single exception it was refused. Western Australia

came

came forward afterwards and petitioned strongly to have them. The want, I believe, arose chiefly from the very distressed state of that colony, which required some stimulus or assistance. Mr. Elliott's evidence bears upon this question.

1186. Then in the case of convicts who are kept in confinement here for a certain time, and are then sent to convict establishments abroad, such as I have referred to, you think it would be absolutely necessary to make it part of the system, that they should be brought back to England at the expiration of their sentences?—It must be so if the labour cannot be absorbed; but as regards the administration of discipline, it can be far more effectively carried out here, and the interests of this country are very much involved in its being so carried out. If convicts were neglected or demoralized by a lax system of discipline abroad, and were then turned loose here, we should have to suffer the whole of the evils of it, and to pay the expense without receiving any of the advantages arising from the profitable application of their labour.

1187. Mr. *M. Milnes.*] Do you happen to be aware whether in Canada there is any convict establishment?—There is not, that I am aware of; and no doubt the Canadians would very much resist any attempt to send convicts there.

1188. I meant whether there was any convict establishment for native Canadians?—That I do not know.

1189. Mr. *S. Fitzgerald.*] When you spoke of transportation as not being a deterring punishment, I presume you were referring rather to the effect upon the mind of the criminal himself?—Chiefly; and then through the criminal and his representations to his friends of his condition in a colony, the intelligence gradually creeps back to the criminal population in England.

1190. Are you not of opinion, that as a deterring sentence receiving its effect upon the relatives and friends of a prisoner, transportation is a more deterring punishment than the sentence of penal servitude, in which case the relatives and friends know that in a very short period the criminal will be restored to them?—A very great amount of distress no doubt occurs, and is visible to everybody who happens to be present; but from an extensive knowledge of the feelings of the men, and witnessing the disappointment which they experienced at not being sent abroad, and the public mind being familiarised now with emigration, I can state that transportation is a very different thing from what it was in times when men were sent to the other side of the world, and when emigration was scarcely known. I cannot regard transportation as a deterring or exemplary punishment.

1191. Is that rather with a view to the state of Australia?—The state of Australia is one thing; there are the gold fields; I would endeavour to explain these views to the Committee in another form. There is no question, I think, that capital punishment is deterring upon the whole population of the country. I believe that the next most deterring punishment would be imprisonment for life; such a sentence would make a very serious impression upon the whole criminal population; and there would be no difficulty whatever in carrying out imprisonment for life, nor any inhumanity in it. It could not be carried out at Newgate, nor at Coldbath Fields, or Pentonville, but it could be carried out at Dartmoor or at Portland, where a man during the whole period of confinement would probably be in better health and in better circumstances, as far as his physical wants were concerned, than he would be if he were at large; but still there would be imprisonment for life before the criminal population. It is one great defect in the sentence of transportation that the punishment is out of sight. If a sentence is carried out at the Antipodes, it is just as much removed, and the man is almost as soon forgotten as if it had been carried out upon an individual ages back; you might as well hold out *in terrorem* the sentences upon the Greeks and Romans in ages gone by. The man and his crime and sentence are soon forgotten; but imprisonment for life within reach would be a terrible realty.

1192. I apprehend from that, that you would suggest that the periods of penal servitude, instead of being less than the periods of transportation, should be the same; that if a man, in fact, under the old law would have been sentenced to transportation for 14 years, you would suggest that he should be imprisoned for 14 years?—No; the Act of 1853 provides a fair amount of imprisonment proportioned to different cases, as representing certain periods of transportation, formerly awarded; a 14 years' sentence is represented by six years' penal servitude, and so on; but there is a provision in the Act for penal servitude for life, as there is for transportation for life.

Colonel *J. Jebb*, R. E., C. B.

5 May 1856.

1193. If, instead of being sentenced to transportation for 14 years, a criminal is only sentenced to the equivalent of penal servitude, which is six years, are you not of opinion that both the criminal himself and the public generally are rather disposed to think that he has got a more lenient sentence than if the sentence had been 14 years' transportation?—No; I think that a man would choose, without hesitation, to go for 14 years abroad, because his imprisonment must necessarily be much shorter. It would not be just to carry out a period of penal servitude of six years, and then to transport the man, because the Act contemplates that a period of penal servitude for six years shall acquit him altogether; that he shall be discharged in this country at the expiration of that time; but if you were to put it to a man sentenced to 14 years, that he should be imprisoned three or four years, and then go abroad for the 14 with a ticket of leave, I feel pretty sure that he would choose the sentence of transportation in preference to that of penal servitude. Therefore, I think, as I have just stated, that the apparently heavier sentences assigned to the heavier crimes are regarded by the prisoners as the lighter of the two, and this is an anomaly in penal legislation arising from circumstances.

1194. Mr. *M. Milnes.*] Are you content with the state of discipline at Portland and other public works?—I do not think that the standard of discipline at Portland is so good at this moment as it was when there was a remission of a portion of the period of imprisonment given as a reward for good conduct; successive stages of discipline have been established, which will go far to furnish a motive; but I do not think it will be equal to what it was formerly.

1195. *Chairman.*] And you ascribe that to the cause which you have before mentioned?—I do.

1196. Mr. *M. Milnes.*] But with the discipline as it is at Portland, is the conduct of the men on the whole satisfactory?—Very, but not equal to what it was.

1197. You would not wish to establish any severer discipline?—No, certainly not.

1198. Are you able to correct offences against prison discipline easily?—We have full power to do that; but repressing ill conduct does not assist in reforming the men, which is one great point to be attended to.

1199. Have you ever made, in your own mind, any comparison of the amount of punishment necessary to procure good discipline in public works, as compared with the case of prisoners confined intramurally within four walls?—No, you can hardly form any comparison between the two, because the discipline on public works rests on the previous discipline in separate confinement; this is an essential feature in the system. A man may have conducted himself very ill in separate confinement, but he may have been subdued by the punishments, and the different motives which have been held out to him there, and thus be prepared to conduct himself well, when he comes into association on public works.

1200. Do you find that it frequently occurs that a man who has not been a well-conducted prisoner in solitary confinement is good and manageable on public works?—Very frequently.

1201. And the contrary?—No, I do not think the contrary is so much the case, but I never instituted any particular comparison to enable me to form a very distinct opinion upon that point.

1202. Is there any corporal punishment used upon public works for offences against discipline?—There is the power of inflicting corporal punishment, but it is exercised only in cases of violent insubordination, resistance to officers, and other acts of irregularity requiring an exemplary punishment; the other punishments are generally very light, and are usually limited to a few days' confinement in a cell with bread and water, or something of that kind.

1203. As an effect of bringing men together on public works, is there any operation of public opinion, as it were, which keeps men in good subordination there?—I think the public opinion of the place is in favour of good order and respectable conduct; formerly it was quite otherwise; at the time of the hulks a man dare not be known to be well conducted, excepting outwardly; there was a dogged submission. Instead of that, there is now a cheerful submission to authority, respect towards the officers, and a confidence in them, and gratitude to the Government for the considerate and just manner in which all their claims are attended to. These feelings exist under a very strict system of discipline; but

but every thing depends upon just and considerate treatment, and upon a certain degree of encouragement.

1204. Must not the effect of that be to produce a much more thorough and real reformation than you could have had under the other state of things?—I have no doubt of it. It is a much more reliable reformation than can be obtained from separate confinement alone. A man cannot be trained within four walls, when he never has an opportunity of putting any of his good resolutions into effect. Again, as regards the old system of the hulks, instead of improving the men, there is no question that it demoralized them to a very great extent. I remember perfectly, that in the first hulk which I went on board, I suggested that a much better supervision would be obtained over the men, if the whole of the divisions in which they were placed were removed. The governor said that I could not be aware of the danger of such a proceeding; that neither himself nor any of his officers would dare to venture down between decks if the men were not confined. There now exists no difficulty at any of the convict establishments; the men are assembled in very large numbers, and nothing in the nature of a combined outbreak has ever occurred, except on one or two occasions.

1205. Have you had any means of following the ticket-of-leave men beyond the mere fact of the revocation of the tickets?—To a very limited extent; a certain amount of correspondence has been maintained with the men by the chaplains and governors, and that correspondence will be appended to a report, which I hope will shortly be ready to lay before Parliament. The whole correspondence is of the most satisfactory kind.

1206. Have you yourself held any intercourse with ticket-of-leave men afterwards who have been absorbed in society?—To a very limited extent; the chief correspondence with them is by the chaplains, who are much interested in their welfare. The men generally write most gratefully to them for the care and attention which has been paid to them during their incarceration; and many of them attribute their reformation entirely to their imprisonment, and consider their sentence to have been a blessing in that respect.

1207. You said that you were against any arrangement which would collect large numbers of ticket-of-leave men together?—Yes.

1208. Would you attach much importance to something analogous to the French system of patronage, with which you are familiar, and by which certain persons undertake in certain districts to provide, so far as they can, for the labour and employment of discharged convicts?—I think it would be a measure of the greatest possible importance in facilitating the disposal and dispersion of the men. I trust before the question of secondary punishments is finally disposed of in this country, to see some organized plan by which societies of patronage will be formed in different districts, and to which societies application can be made from the convict or other prisons; it would be a most material assistance. I am, however, disposed to question the advantage of assembling them in large numbers.

1209. Would there not be a very great jealousy on the part of the labouring classes of the community against any such interference?—I should think not; a labouring man would not object to a poor fellow receiving assistance in a benevolent way from anybody. Mr. Wright, of Manchester, has occupied himself with respect to the prisoners in Salford House of Correction for many years, and has provided for a great number. I have no doubt in that way he has saved them from a continued career in crime, which probably would have ended in their transportation.

1210. With the large amount of what I may call clean labour in this country, do you not think it would be very difficult ever to be sure of having any large amount of employment to give to discharged criminals?—The number who are discharged from the convict prisons are almost like a drop in the ocean as regards the labour market, one or two to 10,000 inhabitants in a year.

1211. Mr. *B. Denison.*] You said something about reformatories a short time ago, did you not?—Yes.

1212. Are you in favour of reformatory institutions?—It is very gratifying to any one who reflects on the subject, to see the great movement which is making with respect to the establishment of reformatories; the question is, whether it is in the right direction.

1213. Have you given us all the information which you can as to the comparative expense of the original transportation system, and of the course which would

Colonel *J. Jebb.* R. E., C. B.

5 May 1856.

be adopted under the penal servitude system?—I have given a general rough estimate of it, which, I think, will bear the test of examination. The year referred to is 1851, when the subject was much discussed; but though the expense of keeping the prisoners has increased a little since that time, I think that the proceeds from labour have also increased, and would tend probably to keep its estimate to about that amount.

1214. Mr. *S. Fitzgerald.*] I see you have credited 175,050*l.* as earnings to be deducted; will you be kind enough to explain upon what principle you have calculated that amount?—I took the earnings in separate confinement at, I think, not more than 5*l.* or 6*l.* a year; those on public works, at about 12*l.* or 15*l.* a year; the earnings in Ireland at only 5*l.* a year; at Bermuda and Gibraltar, at 18*l.* a year; and striking a general average on 17,000 prisoners, I apprehend that it would be about 12*l.* a year; but I am satisfied that is under the mark.

1215. Do you set against their earnings the amount of the materials worked up, or does that not appear?—The account shown is the value of the labour bestowed upon the materials; it is only, however, in separate confinement that such employments are carried on; a fair amount of workmanship is put upon the materials.

1216. Then I understand you to say, that neither the materials nor the articles produced, at all for many part of your calculation; you look to the mere amount of manual labour?—The mere amount of manual labour. We should have to pay so much for a jacket, the material we purchase; and the difference between the cost of the raw material and the cost of a jacket, if obtained from a contractor, represents the amount of labour which is charged.

1217. Has your attention been called, at all, to the system pursued at Auburn and Sing Sing, in New York?—No, I do not know much of those prisons.

Jovis, 22° die Maii, 1856.

MEMBERS PRESENT.

Mr. Baines.
Sir John Pakington.
Lord Naas.
Mr. Adderley.
Mr. Serjeant O'Brien.
Mr. Wickham.
Mr. John Wynne.
Mr. Massey.
Mr. Beckett Denison.
Mr. Deedes.
Mr. Seymour Fitzgerald.
Mr. Monckton Milnes.
Mr. Ker Seymer.

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Colonel *Joshua Jebb,* R. E., C. B., called in; and further Examined.

Colonel *J. Jebb,* R. E., C. B.

22 May 1856.

1218. *Chairman.*] I BELIEVE, since the Committee met last, some further observations have occurred to you which you are desirous of submitting to them with reference to the present inquiry?—Yes; it is an inquiry of so much importance to the Committee and to the country, that I should wish to give the whole results of my own experience, as far as the Committee may consider them worth having.

1219. We should wish to have them. What is the first subject to which you would now call our attention?—Chiefly respecting the principle of transportation and the place it has exactly occupied in the secondary punishments of this country for the last five or six years, and which at this moment it does occupy. It may be regarded as having been a very convenient and a very satisfactory opening for the disposal of the men after the completion of their periods of penal servitude; and in that light it may be looked upon to fulfil the same object which patronage does for juvenile offenders, or for any other persons coming

coming out of prison. There has been this additional advantage from transportation during the time of its continuance to Van Diemen's Land, when all the convicts were sent there, that those whom it was a great object to get rid of were disposed of to the convenience of this country as well as their own advantage. tage. This convenience and advantage, I look upon it, only continued so long as it was possible to absorb the entire labour of the convicts at the expiration of their sentences. It will be in the recollection of the Committee that when the plan which was so carefully devised by Lord Derby and Sir James Graham was acted upon, that plan failed entirely from the colony not being able to absorb the labour. The consequence was, a very great accumulation of convicts; and they were not able to obtain employment, and a great demoralisation existed.

1220. Mr. *Adderley.*] You mean during the probation system?—Yes; that led to such serious evils that transportation was suspended. Then came the plan, which was very carefully devised by Lord Grey and Sir George Grey, for meeting those evils. A period of, I think, between two and three years elapsed previous to the resumption of transportation. Sir William Dennison had been appointed governor there; he brought his experience as an officer of engineers, and his great ability, to bear upon the question, and paved the way for the introduction of this new system. But this new system, I should wish to point out, was in some respects different from the former one. The probation system of Lord Stanley and Sir James Graham was almost independent of this country; it was chiefly carried out in Van Diemen's Land. The substitute that was made for this by Lord Grey and Sir George Grey was that of imprisonment in this country for certain periods proportionate to the sentence, commencing in separate confinement, and followed by employment upon public works, the transportation being the reward of good conduct; and it was looked upon in that light by the convicts. They obtained a proportionate remission of their sentences, and they looked forward to a reward of their exertions by being transported. Transportation in this form became, certainly, compulsory emigration; but as far as a deterring punishment went, I look upon it that it was altogether nugatory. There is a remarkable fact mentioned in a work by Monsieur Bérenger, Président à la Cour de Cassation in Paris, in which he states the proceedings that took place at Brest, Toulon, and Rochefort when the abolition of the Bagnes was resolved upon by the President of the French, by a decree in March 1852. Instead of following out the view of the old Chamber of Peers, which was that the existing places of confinement should be suppressed, and that prisons on shore should be substituted for them, it was resolved by the government that Cayenne should be taken as a place of transportation for a certain category of offenders. But the men who were then at Brest, Toulon, and Rochefort were not under sentence of transportation at all; they were under sentence of imprisonment (*travaux forcés.*) As the decree was not to have a retrospective effect, they were to have the choice of whether they would continue render their sentences or be sent to Cayenne. The terms of their transportation to that place were explained to the men, and in the first few hours after the registers were opened for their accepting this offer, or rejecting it, 3,000 men came forward to give in their adhesion, and to express their wish to go to Cayenne.

1221-2. Out of how many?—I believe they almost all went; the greater part of them went. Monsieur Bérenger concludes by saying that such was the prospect, that little or no difficulty occurred; so little was transportation regarded by the men in the way of repressive punishment. My object would be to place before the Committee the real position in which transportation has stood for some time, and which I think it still occupies, and is likely to occupy, owing to the difficulty of forming a penal settlement, and changing the general arrangements which have been in operation for so long a time. As a substitute for it, I should be inclined to recommend that the whole sentences of penal servitude should be carried out in this country, and at Bermuda and Gibraltar, annexing the condition of transportation with a ticket of leave to some particular period of the sentence, which would sufficiently gain for the country the removal of the man, placing him in a better position, and having the repressive effect of punishment endured at home, which I think has its advantages over removing the punishment to a greater distance, and out of sight. The present sentences of penal servitude may be considered only to extend to a period of five years, because a sentence of six to eight years' penal servitude is deemed to be, under the Act, a full equivalent to a sentence of 15 years' transportation. The

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

punishment would be more defined, and the anomaly, which I have before pointed out, of the heavier sentences being regarded as the lighter punishments, would be done away by annexing the condition of transportation to a longer period of penal servitude. I am not aware that any change in the law would be necessary, but the practice of its administration might be determined, so that all judges, chairmen of quarter sessions, and others, might have a clear knowledge of it, and thus be enabled to keep the certainty of the punishment before the public. It is frequently complained of, that there is an uncertainty in the punishment; that a sentence of transportation is passed, and that neither the judge himself who passes it, nor the prisoner who receives it, is exactly aware of the nature of the confinement that is before him; it does not convey any clear idea, as there have been so many changes. The following scale, only slightly varied from the present practice, may serve as an illustration of the remarks which I have made: assuming that sentences of seven and 10 years are already provided for by the four years' or five years' penal servitude, and commencing at the period of 15 years' transportation, which is represented by six to eight years' penal servitude in full, I should think that the following scale might work well. Instead of sentencing a man to 15 years' transportation, he might be sentenced to five years' penal servitude and 10 years' transportation. But in working the discipline, as I have already stated to the Committee, it is of very great importance to all interests concerned, that there should be sufficient inducement and encouragement to the men to create in them habits of industry and good conduct. I would say, that if a man were sentenced to five years' penal servitude, it should be on the understanding that, on good conduct, he could reduce that period to four. He then would have to serve under a ticket of leave in the colony for 10 years longer; so that a well-conducted prisoner would in reality exactly get 14 years' removal from this country, and a worse-conducted prisoner would get 15 years. It would be a more defined punishment to divide the sentence in that way. From the 14 years' sentence of transportation, which was the old sentence of transportation, I would go to 17 years; it is a new period, but it is a more equal division between the 14 and the 20; and for 17 years I would recommend that a sentence of six years' penal servitude should be passed, reducible to five by good conduct, with 12 years in a penal colony. In lieu of a 20 years' sentence, I should recommend that seven years should be the maximum sentence of penal servitude in addition to transportation, reducible to 5 $\frac{1}{2}$, with the condition being annexed of being transported for 15 years. For life sentences, I should propose that the maximum sentence of penal servitude should be 10 years, reducible to eight by good conduct, but to be transported for the remainder of life. In commutation of sentences of penal servitude combined with transportation (such as would arise in the case of men who could not be sent abroad on the ground of health or other considerations), a longer period of penal servitude in place of removal to a colony would have to be determined. Commencing as before at the 15 years' sentences, which involve the period of five years' service, reducible by good conduct to four, I would submit that in such cases the practical working out of the discipline should be seven years' penal servitude, reducible to six. In cases of 17 years' transportation, there should be eight years' penal servitude, reducible to seven. In cases of 20 years' transportation, I would recommend 10 years' penal servitude, reducible to eight; and in life sentences, 12 years' penal servitude, reducible to 10. In all cases, however, of a life sentence (for they involve very serious crimes generally), they should be specially considered, as they are now, by the Secretary of State; and sentences of death commuted into imprisonment or transportation for life, I think should be served by imprisonment for the whole period of life.

Imprisonment or penal servitude for life, and in a corresponding degree, for longer periods than have ever been heard of in this country, though they might be admitted to be a more certain and more effective punishment than transportation, might probably create a feeling of sympathy for any one subjected to so apparently heavy a sentence. Such a feeling, however, would only prove that such sentences would have a more deterring effect than those of transportation. There would be no difficulty in carrying out such sentences; they could not be carried out at Milbank or Newgate, or in any of the old prisons of the country; but they could be carried out on the present combined system of the first portion of the sentence being in separate confinement, and the remainder on public works, either at Portland or at Dartmoor, or

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

or some other place of that kind. I do not, therefore, think that the public sympathy would be excited against it, and I cannot but believe that that would be a more effective punishment than transportation.

Transportation, as it has been carried on for many years, has also left this country entirely dependent on the colony for carrying out the administration of the law. If we go back only as far as 1837 and 1838, there was Sir William Molesworth's Committee, in which it was condemned. In 1839, in consequence of the condemnation of the system by Sir William Molesworth's Committee, Lord John Russell, who was then at the Home Department, had under consideration a plan for substituting long sentences of imprisonment at home for transportation. That plan was never matured, but Pentonville Prison was erected with a view of ascertaining how far it could be beneficially adopted, and with the double view of ascertaining also by experiment on a large scale how far separate confinement was adapted for carrying out such a long sentence. Then came the discontinuance of transportation to New South Wales, followed by Lord Derby's and Sir James Graham's scheme of transportation to Van Diemen's Land, which only continued for about four or five years. In 1848, Lord Grey and Sir George Grey formed a plan, which worked exceedingly well, until it was stopped by the colony in 1852; and we have now commenced upon the new plan of penal servitude combined with transportation, which has reduced the number sentenced to transportation, about 3,000, to 300; I can give the numbers. The Act of 1853 has reduced the number annually sentenced to transportation in Great Britain from an average of about 3,200 in the five years previous to 1852 to an average of 315, or about one-tenth, during the years 1854 and 1855. The question may therefore be considered to be narrowed almost to a minimum.

1223. *Chairman.*] Have you any observation to make with regard to the estimate of numbers, and the expense of carrying out penal servitude; you gave some evidence to the Committee upon those subjects when you were last here; have you revised your evidence, and is there any additional observation which you now wish to bring before us upon those points?—Yes. The result of the calculations which I laid before the Committee, which I think perhaps it will be better to repeat as a contrast to what I shall now lay before them, was this. The gross cost of transportation and the convict prisons in Great Britain and Ireland in 1851, for 15,720 convicts, was 587,294 *l.* The net cost after deducting the value of the labour, was estimated at 419,476 *l.* The cost of an assumed maximum of 17,250 prisoners and 1,200 females in Great Britain and Ireland, Bermuda, and Gibraltar, with a limited number in Western Australia, assuming transportation to be given up, was 370,750 *l.* The net cost, after deducting the value of labour, was 195,700 *l.*

The calculations referred to have proved in the main to have been correct, the chief inaccuracy having been, that the number of convicts accumulating on the hands of the Government has not been so great as was anticipated, and the value of the labour on public works has exceeded the estimate; so that both those calculations are in favour of the Government. For the purpose of calculation, I will assume that an average number of 2,300 will be annually placed under such sentences as will require their being dealt with by the Government, of whom 2,000 may be males and 300 females. I do not think that that average is under the mark, because when I look back to the resolutions of the Committee of the House of Commons of 1850, there was a strong recommendation on their part that district prisons should be erected for all prisoners sentenced to periods above 12 months, and that a much more extensive use should be made of short sentences of one or two years before resorting to a term of transportation, or, as it would now apply, to four years' penal servitude. If we take, therefore, an average of four and a half years' imprisonment for the 2,000 males and 300 females, the accumulation would be 9,000 males and 1,350 females. As regards the distribution of the men, and the application of their labour, the following statement may be taken as a steady provision of work, which will not require alteration for many years, and where, generally speaking, there exists accommodation for carrying it out. Undergoing separate confinement, 1,900; at Portland, 1,500; at Chatham, 1,150; at Portsmouth, 1,050. Invalids in the "Stirling Castle," 400; and at Dartmoor, 700; at Parkhurst, 600; Gibraltar, 800; Bermuda, 600 (which is about one-half the number that will be employed there, the other half being reserved to be furnished from Ireland); Western Australia, 300; that altogether makes up the 9,000. The females would be disposed of at Milbank,

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

Brixton, and Fulham. The number of convicts in Ireland on the 1st of January 1856 was 2,590 males and 619 females, in all 3,209; and there were sentenced during the year only 33 to transportation, and 485 to penal servitude.

1224. Sir *J. Pakington.*] Do those figures with regard to Ireland represent every person convicted before a court?—Sentenced, I presume, to transportation and penal servitude.

1225. Does that number of convicts refer only to persons sentenced either to transportation or to penal servitude, or does it embrace all the convicts in Ireland?—As I understand it (I take it from the Report of the Directors of Prisons in Ireland), it refers only to those under sentence of transportation and penal servitude. The sentences in Ireland have fluctuated so much, that it is difficult to assume data which can be relied upon for the future; but considering the greatly improved condition of the country, the far greater demand for labour, and the increased wages that are now obtained, it may be inferred that the number is not likely henceforth to average more than about 450 males and 125 females. Assuming four years as the average confinement for them, the total accumulation, when the system is fully at work, may reach 1,800 males and 300 females. For this number there exists ample accommodation in Ireland alone, without reckoning the 600 reserved places at Bermuda.

1226. *Chairman.*] I believe at our last meeting you gave an estimate of the expense of carrying out the system?—That was an estimate of the expense applicable to the numbers in 1852.

1227. Have you now the means of laying before the Committee an estimate of the expense of the numbers since 1852?—In compliance with the wish expressed by the honourable Member for the West Riding, I have looked to the numbers that we may have to deal with under the altered circumstances, and to the difference of expense in several points; and the estimates which I am now going to lay before you are those for 1856.

1228. Mr. *Adderley.*] Your answer to question No. 1138 is the answer to which your present statement refers?—Yes. The estimated expense of carrying into effect penal servitude at home, and at Gibraltar, Bermuda, and Western Australia, would be as follows:

		£.	£.
Great Britain - -	7,300 males,	at 23 each - -	167,900
Ditto - - -	1,350 females,	at 20 „ - -	27,000
Ireland - - -	1,200 males,	at 20 „ - -	24,000
Ditto - - -	500 females,	at 18 „ - -	9,000
Bermuda - - -	1,200 males,	at 35 „ - -	42,000
Gibraltar - - -	800 „	at 32 „ - -	25,600
Western Australia -	300 „	at 40 „ - -	12,000
			£. 307,500
	Cost of transport - -		13,000
	Gross cost - - -		- £. 320,500
	Deduct value of labour -		165,500
	Net cost - - -		- £. 155,000

1229. Lord *Naas.*] Are the cost of building and the purchase of land included in that?—No, all the establishments are complete; we have got sufficient accommodation to carry out the whole.

1230. Does this sum merely refer to maintenance and supervision?—It refers to maintenance and supervision alone.

1231. Mr. *Adderley.*] You are comparing the annual expense of the two systems?—I am giving the annual expense of a system in full operation.

1232. Lord *Naas.*] Are the annual repairs of the buildings included in that estimate?—No, merely the maintenance and supervision; what are usually introduced into the estimates before Parliament.

1233. Mr. *Deedes.*] Would there be much to add in the way of repair?—No, very trifling.

1234. Lord *Naas.*] Can you show the amount of money which has been spent upon the purchase of land and buildings since 1852?—I think 200,000 *l.* was the estimated amount that would be required to obtain sufficient accommodation for carrying out the imprisonment in 1852; but the whole of that has not been asked for yet.

1235. Is Ireland included in that?—No.

1236. *Chairman.*]

1236. *Chairman.*] When you were here the other day, you expressed an opinion that sentences of long terms of imprisonment might be had recourse to much more frequently than they are now, with advantage?—Yes.

1237. Is there any authority upon that subject to which you are desirous of referring the Committee?—The only reference which I would wish to make would be to the Resolutions of the Committee of 1850.

1238. Have you the Resolutions themselves with you?—I have the one which bears upon the point.

1239. Will you read it?—The 17th Resolution was, "That if this plan" (referring to the erection of district prisons) "were adopted, an alteration of the law might, in the opinion of this Committee, be usefully made, in order to substitute, in many cases, for short terms of transportation, longer terms of imprisonment than are now sanctioned by law." No practical steps were taken by the Government at the time for carrying this Resolution into effect; but it clearly was contemplated at the time; and I think it would go far to relieve the Government from many of the convicted criminals who now come upon their hands.

1240. Is there any other point upon which you wish to add to the evidence given by you on the former occasion?—No.

1241. Sir *J. Pakington.*] It has been stated to this Committee that badges are given for satisfactory conduct for six months in separate confinement?—Yes.

1242. And also that when prisoners are removed to public works they are placed in a first, second, or third class, according to their conduct when in separate confinement?—Yes.

1243. Is not there considerable practical difficulty in forming an accurate estimate of what the conduct of a prisoner in separate confinement really is?—It is a negative evidence; it is the absence of reports generally.

1244. Are not the circumstances of separate confinement such as to afford very little latitude for good or bad conduct?—Certainly.

1245. Is it not quite possible that the estimate formed of a prisoner's good conduct, when in separate confinement, may, from those circumstances, be a very fallacious estimate?—I do not think, generally speaking, that it is fallacious; so many officers, the governor, the chaplain, the warders, and the trades' instructors are in constant communication with the men, so that they form, as a whole, a very fair opinion of the men.

1246. With regard to the conduct of prisoners on public works, I suppose there is much greater facility?—Much greater, because they have different temptations before them, and it is by seeing how they conduct themselves under these different temptations to bad conduct or irregularity, that a judgment may be formed of the strength of their resolutions, or their forbearance.

1247. What temptations do you refer to?—The temptations of communicating improperly with their fellow prisoners, or of violent conduct of various kinds, combinations among prisoners, and irregularities which, when a man is within four walls of a cell, he has no opportunity or inducement to commit.

1248. Do you think that the circumstances of public works are such that those who have the superintendence of prisoners are really enabled to form an accurate estimate of what their conduct is?—I think they have a very good opportunity of doing so; much better than they have in separate confinement.

1249. In several of your answers, in your examination in chief, you referred to the very important experiment of tickets of leave in England, and I understood you to state distinctly that, notwithstanding all that has been said and written out of doors, you think, on the whole, that that experiment has been a successful one?—I really think so.

1250. So far successful, that it is your desire to see it rather extended than contracted?—Pardon me; I think that that point, of continuing to give tickets of leave, is open to a question; there are many advantages connected with it in exercising a certain repressive effect, perhaps, upon the individuals; but it marks them as a class, and it is that mark as a class which has interfered with the prospects of many in obtaining employment. I think, therefore, that the balance of my judgment would be, that it would be better to set a man perfectly free, and trust to the chance of capturing him again if he committed himself, than to release him, at whatever period, either medically or on other grounds, with a ticket-of-leave. In a penal colony it would be quite different, but here we cannot maintain the superintendence of the police over them without effectually preventing their obtaining employment.

Colonel *J. Jebb*, K. P., C. B.

22 May 1856.

1251. How is it that the men released under tickets of leave become a marked class?—They are marked by the public; they have to go to magistrates and others to get certificates signed, and they are marked by having to obtain the little balances of their gratuities, which they apply for at the post-office; a man who has settled in a country town has to go to the post-office and say, "I am a ticket-of-leave man; I have come for my balance." He is known as a ticket-of-leave man; it has become a term of reproach.

1252. Of course it would be a term of reproach where it was known; but is it not possible for a ticket-of-leave man, say A. or B., discharged from Portland on a ticket-of-leave, to go to a town with which he may be connected or may not be connected, to any town to which he chooses to betake himself, and there get into employment, without its being of necessity known that he is a ticket-of-leave man?—Scarcely; because, in the first instance, before he is released from Portland or any other prison, a reference is made to anybody in the town who he says will employ him; that is one means of publicity on his coming back; another is, that that offer of employment on the part of any one whom he refers to has to be certified to us by either a magistrate or a clergyman. Then he has to apply for the balance of his gratuity when he really is released. So that there are two or three points which it would be very difficult to conceal.

1253. Would it not be quite practicable to arrange a system under which men might be discharged with tickets of leave, but under which it should be known only to the police of the district, or possibly to the magistrates of the district, that they were ticket-of-leave men?—I think that would be a great object if the ticket-of-leave system were continued as a principle, and that it would be desirable to effect something of the sort. It might, no doubt, be practicable, by communicating confidentially with the police authorities, who might see parties who were inclined to employ those people confidentially, and who might receive and pay the money that was due to them.

1254. Am I to understand you to say, that although you consider the experiment to have been thus far successful, you are not in favour of extending it; does your answer amount to that?—I consider the experiment to have been successful, by the good conduct of the men and the vast proportion of them who have entered on an honest course of life. I think this will be quite apparent to the Committee, if reference is made to the large amount of correspondence which there is, and also if the circumstances which have been brought before the public in the number who have been recommitted be fairly considered.

1255. I find, in Question 1089, you were asked, "Is there any modification of the new system which you would suggest as the result of your experience?" The substance of your answer was, that you should desire to see sentences of four years' penal servitude extended to five, in order that there might be a margin of 12 months, within which remission of sentence might take place and tickets of leave be granted. I do not quite see how I am to reconcile that answer with the answer which you have just given to me?—I do not see that I referred to tickets of leave in my former answer. I recommended, as I have done from the first, the remission of a portion of the punishment as the best means of encouraging a man during the period of his confinement; but it was irrespective of that amount of remission being either on a ticket of leave or a free pardon; that question was not before me. The question of the value of a ticket of leave is now distinctly before me; and I have stated, that though I should at first have formed a more favourable opinion of continuing the system of tickets of leave than I have now, my present opinion is, that it would be better to forego that restriction.

1256. Then I am to understand that what you contemplated in your answer to Question 1089 was, that there should be a margin of 12 months, during which the mercy of the Crown should be exercised?—Exactly.

1257. And in the event of good conduct, that the prisoner should be absolutely discharged?—The question was not before me particularly as to whether he should be discharged absolutely, or with a ticket of leave; but I am inclined to think that it would be better to discharge him absolutely, in the same way that men under sentence of seven years' transportation were dealt with.

1258. I understand your opinion to be, that although you consider the ticket-of-leave system to have been successful, inasmuch as only 8 per cent. have been known again to come within the grasp of the law, still you would prefer that hereafter

hereafter all convicts serving their sentence in this country should rather be discharged at the end of a certain time absolutely, than be discharged with the check which a ticket of leave would establish?—That is my opinion.

1259. In your answer to Question 1104, and in some few other answers, you expressed a desire that there should be greater facility for men under tickets of leave to exercise a discretion whether they would go to the colonies or remain in England?—Yes.

1260. As the law now stands, assuming that a man has money, which you say in many cases they have, what is there at this moment to prevent a man going to the colonies. In one answer you used the expression that it was "not safe." Why is it "not safe" for a man to go to the colonies?—Because the licence would not protect him. The Act, as it now stands, only sanctions the issue of a licence to be in Great Britain or the Channel Islands.

1261. That I understand; but in the event of a man availing himself of the means which he obtained to go abroad, why should it follow that when he arrived in the colony anything would be known about his previous life?—He would run the chance of it; it is a great chance, but it is a chance; any one who knew him to be a convict might apprehend the man, I suppose, in the colony; and that is one difficulty which exists with respect to tickets of leave, that the Government could not very well interfere in any way to assist a man in emigrating to a colony.

1262. You mean that in the case in which a man was in possession of a ticket of leave, the Government could not aid him in going to a colony?—They could not possibly do so.

1263. In the event of any system being adopted, under which men with tickets of leave were to be aided by the Government in going abroad, do you think there would be any danger of a bad moral effect?—No, I think where a man has gone through the whole of his punishment, the aid of the Government or the aid of benevolent individuals would come in as a most necessary and advantageous adjunct to the prison discipline.

1264. I wish to ask you some questions with regard to the periods of penal servitude, which the Act has substituted for the corresponding periods of transportation. In Question 1110, you were asked by the chairman whether there was any other alteration of the existing law which you would suggest, and your answer was, that you had no change to suggest in the Act of 1853, which substituted penal servitude for transportation; I collect from that answer that you think that the periods substituted are satisfactory; is that your opinion?—Yes; excepting as regards working a combined system, where I pointed out that this anomaly existed, that as you could not carry out the full sentence of six to eight years' penal servitude, which represents 15 years' transportation, and then transport a man, it would be necessary to carry out a less term of penal servitude, and therefore that a man who was under penal servitude for only five years for a less offence, would feel himself to be more severely dealt with than a man who was under sentence of 15 years' transportation.

1265. Have you not yourself, in the answer to which I have previously referred, in stating your wish that five years should be substituted for four, suggested, at all events, one respect in which you think it desirable to change the law?—I do not think the law requires change; it would be the practice of its administration.

1266. Surely the law would require to be changed, because if you wish a convict to pass a sentence of five years instead of four, under the existing Act of Parliament it cannot be done; would not it require a change of the law?—It might require it; it is a subsequent consideration of the subject which has led me to think that that would be a possible way of avoiding the anomaly which I have pointed out.

1267. I was rather surprised to see in one of your answers a distinct statement that you thought no change of the law was necessary; does not the very change which you have suggested require a change of the law; in your answer No. 1089, you distinctly stated that five years ought, in your mind, to be substituted for four, with the view which you there specified?—Yes.

1268. Four years is the maximum period substituted for seven years?—Yes.

1269. Therefore, if you want to have five years instead of four, surely you can only arrive at it by a change of the law?—I was under the impression that it would be in the discretion of the judge to pass a sentence of five years instead of four.

Colonel *J. Jebb*, R. E., C. B.,

22 May 1856.

1270. Are you satisfied in your own judgment that a sentence of four years' penal servitude is either in truth or in its deterring effect, as regards its effect upon society, a full and fair equivalent for a sentence of seven years' transportation?—I think so. It was the practice for many years to release every man in this country who was sentenced to seven years' transportation, in 3 ½ years, if he conducted himself well in the hulks.

1271. In the first place, that was only in the event of good conduct; but even in the event of good conduct, there was only a difference of six months between that part of a sentence of seven years' transportation and the whole of the corresponding sentence of penal servitude?—Yes.

1272. Therefore, excepting six months, the whole balance of the seven years is in that case remitted, is it not?—The whole balance of the seven years' transportation is remitted. A sentence of transportation is not necessarily a sentence of imprisonment. And as a further illustration of it, I may say that in the system which worked so well in Van Diemen's Land up to the period of its discontinuance, a seven-years' man was embarked from this country after two years' imprisonment, and received his ticket of leave when he landed, perhaps in about two years and a half.

1273. But although the remainder of the seven years was, as you truly say, not a period of imprisonment, it was a period of comparative punishment, and it was a period of complete severance from all the ties of home and kindred?—It was; but if you look at it in another point of view, a man during his stay in Van Diemen's Land, if he were a well-conducted convict, was in every respect as well off, or perhaps better off than a free emigrant, because in addition to having learnt a trade and become habituated to hard work, and subject to discipline, he had a claim upon the Government either for employment or for maintenance, therefore he was so far in a better position than a free emigrant.

1274. Taking the case which you have put, of, in the one case, 3 ½ years in separate confinement and public works, and then the balance in exile, and, in the other case, four years' penal servitude, does not it come to this, that the sentence of penal servitude is very near being the sentence of transportation, the transportation omitted?—I have just mentioned that a seven-years' well-conducted man embarked from this country at the end of two years, not 3 ½.

1275. You said 3 ½ in the case of good conduct?—No, that was from the hulks; that was when he was released in this country. When transportation was combined with it he went away from this country, if he were well conducted (and I am sure that nine-tenths of them obtained that indulgence), in two years.

1276. You of course subscribe to the general feeling, that all sentences of punishment are rather looked to as the means of deterring from crime than as anything vindictive towards the individuals concerned?—Certainly.

1277. In the event of any ordinary conviction for sheep stealing, or any of those common crimes in a rural neighbourhood, which do you suppose would exercise the most deterring effect in the neighbourhood: if the friends and relations of a prisoner came home and announced that their relation had been sentenced to Portland, we will say for four years, at the end of that time to return to his friends and to his habits of life, or that that man had been sentenced to a period of seven years' transportation?—It depends very much upon the connexions that a man has. If he has a wife and family, and friends around him, I have no doubt that a sentence of seven years' transportation would exercise a more deterring effect upon those particular people than a sentence of four years' imprisonment, because they would then look to his early return among them; but for the majority of the men who have very slender ties in this country, I think that the prospect of two years' imprisonment in this country, combined with transportation to any one of the colonies afterwards, would not exercise so deterring an effect, either upon the man himself or upon his associates, as the longer period of imprisonment; and I form that opinion upon the extended experience which has been gained in all the convict prisons, where we have seen that the great boon looked forward to by all these men was the period of embarkation; they looked forward to it as the greatest boon. I never heard of the reluctance of a man to embark.

1278. Upon that, in the first place, I would ask you whether you observed that in an equal degree before the last few years, during which the gold discoveries

coveries have altered the whole complexion of Australian transportation?—Yes: I think so. Portland was open several years before the gold discoveries could have operated much upon the public mind.

1279. Secondly, I would ask you, both with regard to that and with regard to what you before said about the willingness of French convicts to go to Cayenne, whether you think in both cases that feeling, to which you refer, did not arise from a feeling of comparison; that, although going abroad under such circumstances was a severe measure of punishment, still it was better, lighter, and more endurable than the hard labour endured at home?—That was the view which, no doubt, the convicts took of it, and I look upon it that, as a deterring punishment, whatever a convict feels, is what will eventually have the greatest influence out of doors, because it is by his representations, either of his success in life or of what he suffers, that others must be guided.

1280. That does not quite meet my inquiry, whether you think the willingness arose from the sense that it was by comparison a lighter punishment, or whether you think it arose from the much stronger feeling that it was in itself a positive boon?—I can hardly answer that question.

1281. Can you tell me what proportion of transported convicts, for whatever period they might be transported, or taking the different periods for which they have been transported, have ever in fact returned to this country?—A very small portion indeed; and I have always looked upon it as rather a blot in the penal administration of this country, that a man should receive a sentence of, say, seven years' transportation, that he should be landed at the antipodes, and have no means whatever given to him of returning to his native country.

1282. Was it so?—Yes.

1283. In the event of a seven-years' convict desiring, at the end of seven years, to return to England, was no means afforded him by the Government of doing so?—I never heard of a man being assisted in any way whatever.

1284. Your answer includes, if I understand you rightly, all the periods of transportation, seven years as well as others?—Yes.

1285. Do you suppose that that fact, of a very small proportion even of the shortest transports returning to England, did not become known?—I think it is very probable that it did become known, but it became known in connexion with the men having settled themselves very comfortably in the colonies.

1286. Can you tell me in what proportion it would become known in connexion with such information as you have now mentioned?—I think that, generally speaking, the whole of the accounts which we received from Van Diemen's Land were such as would lead to the belief that the majority of the men were doing very well for themselves, and that, therefore, they had no desire to come home; that is the general impression which I have gained, without being able to go into particulars upon the point.

1287. Is it known what proportion of convicts died in the colony previous to the termination of their sentence?—I do not recollect exactly how those statistics are, but the general impression I have is, that the men were very healthy out there.

1288. Is it your opinion, that the fact being known that a very small proportion of convicts ever return to this country, it would be considered as an additional element of punishment?—I should think it would probably be connected with it. If it were understood that they wished to return, but could not, I think then a sentence of seven years would appear as if it were a sentence for life, if a man were landed and could not get away.

1289. Looking to the great object of determent, do not you think that the fact being notorious that very few men who once go abroad ever return, would have a very deterring effect both with men who were disposed to crime and with their kindred?—I think, as I have stated before, that it would depend very much upon the communications a man made. If he said that he was doing so well that he did not wish to return home, I think it would rather have a tendency to encourage others; it at least would not have a deterring effect.

1290. You do not think that the fact of a sentence of seven years, involving severance from kindred and home for that period, would of itself make it a severer sentence than a mere severance for four years within the country?—I do not think it would.

1291. You stated on a former day that you thought six years of penal servitude a full equivalent for 14 years' transportation?—I think it is.

Colonel *J. Jebb*, R.E., C.B.

22 May 1856.

1292. You have stated this morning that you wish to fill up what, I think, you describe as a void, between the present sentence of six years' penal servitude and the sentence of penal servitude for life; do you not think that the present scale is very defective in that respect; that there is no period of penal servitude under the Act between 10 years and life?—I think that the sentences which I have ventured to lay before the Committee would be an improvement; that is to say, a certain proportion of every sentence being passed in penal servitude, combined with transportation afterwards.

1293. You are not satisfied with the state of the law which contemplates no sentence of penal servitude between 10 years and life; is it that deficiency in the Act which you wish to supply by the scale which you have suggested?—I am not sure that it would require additional powers in the Act. I think the Secretary of State would have the power of commuting the sentence of transportation for 20 years, or whatever it might be, into some corresponding period of penal servitude.

1294. Then would you contemplate filling up that vacuum, as I may call it, between 10 years' penal servitude, and penal servitude for life by transportation? Yes, combined with penal servitude.

1295. When you suggested this morning a new scale above 10 years, that for 14 years' transportation there should be five years' penal servitude, and 10 years' transportation, did you intend that by way of a substitute for the present six or eight years' penal servitude?—No, it was more in the mode of administering the sentence. Whether it would require a fresh Act, or an alteration in the present Act, to allow the judge to express the thing, I cannot say. I hardly think it would. I think it would be quite within the power of the Secretary of State to make a regulation that every man under a sentence of 14 years' transportation, or any other period of transportation, should serve a portion of it in penal servitude, and the remainder in transportation. It is the portion of penal servitude which shall be served in connexion with transportation that I am desirous of providing for.

1296. The present law says, that instead of a sentence up to 15 years' transportation, a sentence shall be passed of six or eight years' penal servitude?—Yes.

1297. You have recommended this morning that instead of that sentence there shall be a sentence passed of five years' penal servitude, and beyond that 10 years' transportation; surely the sentence which you have this morning suggested of five years' penal servitude, followed by 10 years' transportation, is a very much severer sentence than the sentence which the Act of Parliament contemplates, is it not?—Yes, I should think it is.

1298. Do you mean that the two sentences shall be concurrently acted upon, or in what way would you propose to deal with this existing Act of Parliament, which awards a maximum of eight years' penal servitude as a substitute for 15 years' transportation?—What I propose refers only to the mode in which the sentence of transportation should be passed; I propose that the mode of administering it should be as it is at present, namely, a certain period of penal servitude, with the remainder served in transportation.

1299. Then I collect your meaning to be this, that the judge should in all cases retain the option which he now has of sentencing either to penal servitude or to transportation?—Yes.

1300. But in the event of transportation being preferred, that sentence should be carried out partly in penal servitude?—As it is at present.

1301. You said upon your former examination, in answer to Questions 1130 to 1133, that you wished to see a greater gradation of punishment as between the present periods of imprisonment and the present periods of penal servitude?—Yes.

1302. When you gave those answers (and you have adverted to the same subject this morning), what description of imprisonment did you contemplate?—Imprisonment, commencing in separate confinement in a county prison, for a certain period, and combined with hard labour, and a certain gradation of punishment in the prison; there has been so much experience gained now of the advantage of affording the means of encouragement to good conduct, that any gradation in the punishment in ordinary prisons on the same principle precisely as has been carried out in the military prisons and in the convict prisons, would, I think, be of advantage in its results, as striking at the great proportion of recommittals which exist in almost all the counties in England.

1303. The

1303. The present minimum of penal servitude is four years?—Yes.

1304. To what extent would you increase the present periods of imprisonment?—I would resort to more sentences of 12 months, 18 months, and two years.

1305. Would you go as far as three years?—No, I think not.

1306. Why should you leave the interval so long as from two years to four?—I think the county prisons would not have the means of carrying out such long sentences.

1307. Do you mean that up to two years you would confine prisoners in county prisons, subject to the system of those prisons, whatever it may be?—Not in separate confinement for the whole period. I should recommend the adoption of the same plan which has been followed in the convict prisons; that is to say, commencing the period of two years, with perhaps six or nine months' strict separate confinement, followed by a greater degree of association, with some few increased privileges, and going on by gradations until the end of the term.

1308. But a very considerable portion of the county prisons are now upon the separate system, are they not?—They have the means of carrying out the separate system, but those prisons will allow of any amount of provision in favour of association that might be deemed desirable.

1309. What objection do you see to carrying out the same principle which you have recommended in this way, namely, by shortening the present period which the law allows for penal servitude, and allowing courts to sentence prisoners to penal servitude for three or even for two years, if they saw fit?—If the discretion of the judge and the chairman of quarter sessions is fettered as regards the particular crimes for which they could pass a sentence of two years' imprisonment, instead of one of four years' penal servitude, I think the law would require alteration to facilitate that; but you, of course, are a much better judge than I can be of the amount of discretion which can be exercised by a chairman of quarter sessions.

1310. In the event of a case (and of course you must be aware that there are numbers of such cases) coming before a court, in which a period of penal detention of two or three years is considered to be the fit sentence, would it not be far better that that penal detention of two or three years should be carried out upon our public works than carried out under any system now in existence in any of our county gaols?—I think that the recommendation of the Committee of 1850 would more nearly answer that purpose than the public works; I think that mixing short-term prisoners with long-term prisoners would have a bad effect upon the discipline; I should much prefer prisons expressly appropriated, as recommended by the Committee of 1850, for all sentences, say above 12 months up to two years, and that then, commencing with the penal-servitude sentences, they should come to the Government prisons, as they do at present.

1311. In that case, would you not recommend reducing the present minimum period of penal servitude so as to contemplate sentences of three years?—I have just said, that if the discretion of the judge is fettered in those points, it would require an alteration in the law.

1312. On the other hand, do you think it would be advantageous to give courts the power of lengthening the present period of penal servitude, so as to sentence to penal servitude for a very much longer period for some offences than can now be done; say 15 years?—I am not quite prepared to give an opinion upon that point, because I have not distinctly in my recollection the classes of offences.

1313. Looking to the nature of the system upon our public works, do you see anything in that system to make it dangerous or objectionable to confine men who have committed grave offences upon those public works for a long period of years, or for life?—I see no difficulty at all in it.

1314. It has been stated to this Committee that as imprisonment proceeds, the latter years become so much more irksome than at first, that it is hardly possible to carry out extended periods; I understand from your last answer that you do not concur in that opinion?—I do not concur in that opinion, but it depends upon the amount of encouragement which you can hold out to a man during the whole extent of his confinement. A hopeless imprisonment for a very long period would doubtless break down a man, and render him reckless; he must have some particular object before him, which will support him under his confinement, and induce him to conduct himself well.

1315. In Question 1114 you were asked, "Then your suggestion is, that with

Colonel *J. Jebb*, K. E., C. B.

22 May 1856.

regard to those cases where there is still an alternative, the judge should pronounce a sentence of penal servitude, and not pronounce a sentence of transportation?" Your answer was, "It is a question of policy, but would not require any change in the Act." I wish to have some explanation of that answer. Am I to understand you to mean by that answer, that you would have the judge pass a sentence of penal servitude without reference to the question whether the man is to be transported, or whether he is to be kept in England?—Many judges have passed sentences of longer periods than six years' penal servitude; and those sentences, having been passed at a time when it was optional with them to pass a sentence of transportation, show that they considered that penal servitude was the better sentence of the two. The large proportion of men who have been sentenced to penal servitude instead of transportation, I think, bears upon that point.

1316. Is it not most desirable that the sentence passed, whatever it be, should be clear and intelligible?—Yes.

1317. Therefore is it not most desirable that if transportation is intended, transportation should be pronounced?—Yes.

1318. And the same with penal servitude?—Certainly.

1319. In answer to Question 1124, you stated an opinion that it was the intention of Parliament in passing this Act, that the periods of penal servitude should be carried out?—Yes.

1320. Do you think that opinion is quite consistent with the language of the ninth clause, allowing the system of tickets of leave?—The tickets of leave were mainly to provide for the commutation of the sentences of the large number that were then on the hands of the Government.

1321. Under sentence of transportation, you mean?—Under sentence of transportation. It is not limited to them, but it was I think so intended. The fact of a licence being applicable in regard to sentences of penal servitude passed since that Act, always encouraged my hope that a certain remission of the period might be granted; but I believe, as far as I can recollect the discussion at the time, that it was the intention of those who framed the Bill and of Parliament (and probably the speeches which took place in the House of Commons and the House of Lords on the occasion would bear me out), that the penal servitude for four years should be fully carried out; that term being reckoned a fair commutation of the sentence of seven years' transportation.

1322. Your answer seems to refer rather to the intention of the Executive Government than to the intention of Parliament. The intention of Parliament can only be derived from the language used in the Act of Parliament, and you are aware that the language of the Act of Parliament is by no means restricted in the way which your answer seems to contemplate?—The Act does not restrict it; but I think that the intention was, so far as my own opinion goes, that the sentences of penal servitude were to be considered a fair commutation of the former periods of transportation.

1323. So far as the language of the Act goes, there is no reason whatever why the system of tickets of leave should not be applied to penal servitude as to transportation?—It is entirely open to that.

1324. Has any rule been laid down by the Secretary of State, restricting the Act of Parliament, in the way I now advert to; namely, by prescribing that tickets of leave should be granted to persons under sentence of transportation, but not to persons under sentence of penal servitude?—The Secretary of State has issued a rule by which convicts are made aware that sentences of penal servitude have been substituted in some cases for sentences of transportation, and that those sentences, being of much shorter duration than the sentences of transportation, are to be taken in place of them, and that the convict shall not, therefore, as a general rule, look forward to a remission; but the Secretary of State has also said that he will be prepared to take into consideration any special cases which may be brought before him.

1325. What is the date of that rule?—That rule was issued in November 1855.

1326. *Chairman.*] Was the date at which the notice referred to in Question 980 was issued, the month of November 1855?—Yes, it was; and in the interval between the passing of the Act of 1853 and the issue of that notice, the men were in a state of uncertainty as to what would happen to them.

1327. Sir

1327. Sir *J. Pakington.*] Can you tell this Committee whether, during that period (namely, from the passing of the Act in 1853 to November 1855) any intention had been announced by the Secretary of State upon that subject?—No.

1328. Did you yourself know, from the passing of the Act in 1853 till November 1855, whether the ticket-of-leave system was to be extended to penal-servitude convicts or not?—I was not aware; I was in hopes it might, in consequence of its being left open in the Act, and knowing the extreme importance of placing before prisoners that strong inducement; but I was not fully aware whether it would be done. It was under consideration for a long time.

1329. It was left open, in fact, for two years?—It was left open for nearly two years.

1330. I wish to ask you some questions with regard to the system under which we send convicts to Gibraltar and Bermuda. I think you stated the number of convicts which those two places receive?—Yes.

1331. Is that demand likely to be in both cases a permanent demand?—I should think so.

1332. Who selects the convicts that are to be sent to Gibraltar or to Bermuda?—Captain Whitty generally selects them from among the long-sentenced men who may be at Portland, Portsmouth, Woolwich, or Dartmoor.

1333. Is it done under your guidance and control?—The lists are submitted to me by Captain Whitty; we look them through together, and I then send them into the Home Office with all the papers connected with each case.

1334. Then, in fact, you, as the head of the department, are responsible for the selection?—Yes.

1335. Upon what principle is the selection made?—We select healthy convicts, capable of doing the work which is required of them, and who have the longest terms to serve, in order to avoid the expense of bringing them home again. Gibraltar and Bermuda may be looked upon precisely in the same light as Portland and Portsmouth; they are public works under the Government, to which convicts are sent.

1336. Is the cost of sending the men out there and bringing them back the only reason why you select the longer-sentenced men for going out there?—That is the only reason.

1337. What is your opinion of the comparative severity of the system in those islands, as compared with Dartmoor or Portland?—I do not think the men generally dislike it.

1338. What is your opinion of the comparative severity of the two systems?—The system of discipline is not so strict, I think, either at Bermuda or at Gibraltar, as it is at Portland. Measures are now in progress for assimilating the discipline of those two establishments closely to that of the establishments at home. Whether it is from the general knowledge which convicts have that it is a nice climate, and that they have little indulgencies or have had little indulgencies there which they do not obtain at home, I do not know; but it certainly is the fact that they do not, as a general rule, feel it to be more severe going there than remaining where they are.

1339. Do you think they prefer being selected to go there?—I do not know that they would prefer it exactly.

1340. I apprehend that there is no good reason why the system of discipline should be less severe there than it is at home?—No, excepting as regards climate; they may perhaps not be required to work so many hours. It is a most important point to bring the discipline of those places to the same system.

1341. Are you able to carry out in Bermuda and Gibraltar that gradation of classes which you effect in England?—The same is going to be introduced into the discipline; it is partially so already as regards the system of wearing badges denoting the different classes, and the little privileges which they obtain in consequence.

1342. One of those little privileges is receiving visits from friends; that would not be quite so easy, I apprehend?—There is a compensation for that; it must in some degree vary in consequence of the circumstances of the colonies; but they have had several little privileges which compensate for that.

1343. Have you ever considered whether it might be practicable, or if practicable, whether it might be desirable, to make the system in Bermuda and

Colonel *J. Jebb*, R. E., C.B.

22 May 1856.

Gibraltar a more severe system than in England, so as to effect a gradation in our system by that means?—I have considered it, and I think that partly with a view of saving the expense of the transport backwards and forwards, and also from the consideration that possibly it might have a more deterring aspect out of doors, it might be desirable to send the men under the longest sentences, and convicted of the heaviest crimes, to undergo their punishment in Gibraltar or Bermuda.

1344. Do you think that any good effect might be produced by devising means for rendering the work at those places decidedly more penal and severe than at home, and for enabling courts to make it a part of their sentence that penal servitude should be carried out, not at home, but in those settlements?—I think it might; I think it might strike the public mind with a degree of awe which it does not possess under the imprisonment at home.

1345. I infer from the general tenor of your evidence (I forget whether you have exactly expressed the opinion), that your opinion is unfavourable to any resumption of transportation as a general system?—I am quite unfavourable to it as a part of the punishment; I look upon it as a means of disposing of convicts chiefly, and that is the light, certainly, in which it has been regarded for some years past.

1346. But in the very events which you have contemplated this morning, regarding the longer periods of sentence, namely, awarding five, six, and eight years of penal servitude, and then the going to a colony for the remaining portion, covering a great number of years, does not the balance which remains in the shape of transportation become an element, and a very important element, in the punishment of the prisoner?—To some extent it may be so; but I think that if it were contrasted with a much longer period of imprisonment at home, the imprisonment at home would have a more deterring effect.

1347. In the sentences which you have been contemplating this morning, where do you propose that they should be carried out; I mean those sentences of long transportation which you have described?—The only opening which we have at present for transportation is Western Australia. Now whatever advantage may be supposed to result from transportation, it certainly is secured at an enormous expense. We have sent 3,500 convicts to Western Australia, and the cost up to this period has been 400,000 *l.* Those men were selected as being the best of our men; they were selected for good conduct; and I have not a doubt that 2,500 of those men would have returned, in this country, to an honest course of life. I therefore look upon it that you have paid 400,000 *l.* up to this period for getting rid of 1,000 men.

1348. Am I to infer from that answer that you would wish to put a stop to transportation to Western Australia altogether?—I only look upon it as a means of disposing of the men. Under the present agreement and understanding with Western Australia, they only want to take the best of the men; it is the worst of the men that we want to get rid of.

1349. Then, as the administration of the law now stands, your opinion seems to be, that being transported to Western Australia is a milder punishment than penal servitude at home?—Combined as it is with the shorter term of penal servitude at home, I consider it so.

1350. As it stands?—Yes.

1351. The usual contemplation with those who have to administer the law in this country is exactly the reverse, is it not?—Yes.

1352. Is it not, in your judgment, desirable that it should be, in truth, the real state of the law that transportation, so long as it is continued for the graver crimes, should be a more penal gradation of punishment between penal servitude and the capital punishment of death?—Yes, certainly.

1353. Practically, it is not?—I do not think that it is. My suggestion about the sentences was directed to that point, so that if a combined system of transportation and penal servitude were carried out it would be a more certain punishment before the public at home, if a judge, in passing a sentence of 14 years' transportation, were to say, "Now, remember you will get a period of five years penal servitude at home, and then you will go abroad for 10 more."

1354. You of course are aware of the fact that Western Australia are rather desirous to have a greater number of convicts sent out than we have hitherto sent

sent out to them?—They have expressed a strong wish to that effect, but it arises, as Mr. Elliott has pointed out, I believe, more from a desire to have a great government expenditure there than from anything else. They have not the means of absorbing, in a healthy and legitimate manner, the labour of those convicts at the expiration of their sentence; that is my belief.

1355. Have you considered the policy, or the possibility, of establishing a new penal colony?—I have, often. As I stated, in a former answer, I agree entirely with Mr. Elliott upon the difficulty of doing so.

1356. You are adverse to any such establishment?—Quite so; I do not see how it is to be carried out without incurring all the evils which we have already submitted to.

1357. Mr. *Monckton Milnes.*] You have stated that an arrangement has been made with Western Australia by which they were only to take the best convicts?—That was the understanding.

1358. How was that understanding come to?—By their petitioning; when they first petitioned for convicts to be sent, the understanding was, that they should be the best behaved convicts.

1359. How has that been expressed; in a letter from the Colonial Office, or in what form?—I think you will find it in the transportation papers; but without knowing accurately what the terms were, it has been the understanding that the best convicts were to be selected for Western Australia.

1360. Is it within your experience that much importance is attached by prisoners who are not hardened, and who have not been several times committed, to the length of the period for which these sentences are passed?—The prisoners look very much to the period that they have to be detained; it is a subject of the greatest anxiety with all of them, both good and bad. And that leads me to form the strong opinion which I have laid before the Committee of the importance of some remission of the period as an encouragement to good conduct.

1361. For instance, in a case in which two men were sentenced, one to four, and the other to seven years, either of penal servitude or of transportation, or a combination of both, would the effect be considerably different upon the minds of those prisoners?—I should think so; but when we speak of periods of penal servitude, they are not usually combined with transportation; they are periods which they have to serve out in imprisonment.

1362. Is it not the fact, that in cases of first conviction the circumstance of the punishment itself quite supersedes all consideration of the time for which the punishment shall be endured?—It may be so; but when the prisoners come into prison, and see before them the long series of months which they have to serve, it depends very much upon the relative term of the sentence whether it presses severely or otherwise upon the men's minds; it is very difficult to form an opinion upon the point, because it affects people so very differently.

1363. But nevertheless, you are of opinion that the mental condition of prisoners who are sentenced to a short or to a longer term of punishment is considerably different, even immediately upon the conviction?—I think the prospect of a long term of imprisonment would necessarily have a more depressing influence upon a man's energies than a shorter one, and therefore render him less able to bear the punishment; and it is on that account the more necessary to support him by some stimulus of hope.

1364. Practically, do you find the demeanor of prisoners who are sentenced for a longer term, different from that of those who are sentenced to a shorter one in the period immediately afterwards?—No; I think there is nothing in their demeanor that would lead you to form an adverse judgment. If the sentence is prolonged to an unusually long period, there would require to be some little inducement in addition to what would be given to a man under a shorter sentence, and the prisoner would be looking forward to getting that.

1365. If I understand you rightly, you attach more importance to the principle of hope being preserved in the mind of a man, than to any other mental action whatever?—I think it is essential that punishment should be combined with reformation. I think you cannot work out those combined elements of a sentence without giving a man encouragement.

1366. Do you find that the feelings of hope of reformation do germinate in the mind of a man soon after his punishment begins?—I think the term of separate confinement is most valuable in commencing a long system of imprisonment; it gives time for reflection; it subdues the man, and it is almost, I may say, the

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

basis upon which the discipline, which is now in operation on public works, stands.

1367. Has your attention ever been drawn to the notion of a penal settlement in British North America?—No.

1368. Or in any other part of the world except in Australia?—No; I have not heard of a proposition of that sort for some years. North Australia, as you are aware, was once almost constituted into a penal colony; but it was abandoned by Lord Grey as soon as he came into office. The Falkland Islands and others have been talked of, but that is frequently done without reference to the chief difficulty which accompanies the administration of the law in respect of these long sentences. It is at the period when a man is discharged that the difficulty arises. If the men were sent to a remote island where the administration of discipline could not be superintended, where you would either have to give to the governor very extended powers which might be abused, or to diminish those powers to such an extent as that the convicts became the masters, you would not get a good result from the discipline which was administered there; but at the expiration of a certain period those men would have to come home, and the mother country would therefore have all the effects of a lax system of discipline to contend against, and all the expense of it without any of the benefits.

1369. You appear to contemplate a long continuance of the custom of transporting prisoners to Bermuda and Gibraltar; will not all the public works which are necessary in those places be soon so complete that there will afterwards be no efficient use of convicts?—It is not said so by the Admiralty and Ordnance authorities; they contemplate for a very long period requiring the assistance of convict labour in those colonies, and if we may judge from what is close under our own eyes, at Portsmouth and at Woolwich, they would take double the number of convicts which they have now, and be glad to receive them.

1370. You have spoken upon the question of increasing the severity of the treatment of the convicts in Bermuda and Gibraltar; do you think that that could be done without injury to their health in those climates: is not the present amount of severity as great as is consistent with the preservation of their health?—I do not think it would be necessary to increase the severity of the discipline; it would be the length of the period which would constitute its severity, the discipline being the same.

1371. Mr. *S. Fitzgerald.*] When you recommend a plan by which you would have first penal servitude for a considerable period, and transportation afterwards, how do you reconcile that plan with the impossibility which you state now exists of absorbing additional labour into Western Australia, which is the only place where transportation can be carried out?—I merely wish to lay before the Committee the mode in which a sentence of transportation under a combined system, where you have some sentences of penal servitude and some of transportation to deal with, might be carried out; it does not go to represent my opinion, that transportation can be advantageously continued.

1372. I understood you to recommend that in future there should be a combined plan, by which a prisoner should be sentenced, first, to a lengthened period of penal servitude, and afterwards to transportation?—That remark had reference to the means of working out the Act of 1853.

1373. In order to work out the Act of 1853 in the way in which you suggest, it would be necessary to find some place to which you could transport the criminals, and where their labour might be beneficially made use of?—Yes; that is one consideration which leads me to think that this country ought not to be dependent upon a colony for carrying out so important a point as the sentences of the law.

1374. Then am I to understand that you do not recommend such a system as that which I have referred to, by which there should be, first, a sentence of penal servitude, and afterwards a term of transportation?—If a colony can be found which is willing and able to absorb the labour of the convicts who are sent there, it would be of advantage to all classes to carry out a sentence of transportation; and then, with a view to preserve the deterring effect, a considerable period of that sentence might be carried out under penal servitude in this country, in sight of everybody, as was the case when Van Diemen's Land was open.

1375. Then your recommendation, in fact, depends upon the possibility of finding some place where transportation can be properly carried out?—Entirely so.

1376. I understood

1376. I understood you to suggest that it should be possible for a judge to sentence a prisoner to penal servitude beyond the seas?—The sentences can now be carried out beyond the seas.

1377. I understood you to say that it would have an additional deterring effect if the sentence passed in open court was penal servitude beyond the seas?—No; penal servitude before commencing the transportation.

1378. I am not saying that the exact words which you used were "penal servitude beyond the seas," but that you recommended that it should be a sentence which the judge should have the power of passing, that the penal servitude should be worked out not in this country?—No; what I said was, that it would be desirable that a judge, in passing a sentence of 14 years' transportation, should be able to say to a prisoner, "Now, five years of this sentence will be carried out at Portland, or at Bermuda, or Gibraltar; but if you conduct yourself well, it may be remitted to four years; that is the minimum; but then you will go out to a colony beyond the seas for the remainder of the term."

1379. That is a different point altogether. I understood you to say, in answer to Sir John Pakington, that you thought it would be an additionally deterring sentence if a judge had the power of saying that the penal servitude should not be passed in this country, but abroad?—Yes; in Gibraltar or Bermuda.

1380. In what respect would that, in fact, differ from transportation, except in this, that the prisoner would have to be brought back again?—It would differ in this respect, that a man, instead of being at large with a ticket of leave, and receiving conditional pardon, in one of the remote colonies, would be imprisoned on public works at Gibraltar or Bermuda, in the same way as he would be at Portland or Portsmouth. The only difference in the aspect out of doors would be that it is beyond the seas; so far it is in a remote colony, and, as Sir John Pakington, I think, suggested, it might have a more deterring effect if the graver offences were carried out at Gibraltar or Bermuda.

1381. For what periods would you suggest that such a sentence should be passed; at present there is no sentence between 10 years' penal servitude, and penal servitude for life; would you say that it should be in the power of the judge to settle the sentences for certain offences, to pass a sentence of penal servitude beyond the seas for 10 years?—A sentence of transportation for life is now contemplated to be commuted into a sentence of 10 or 12 years' penal servitude; it may be for life; I think that a better gradation perhaps might be laid down than that in the Act; but it did not occur to me before.

1382. Then, would you have a gradation not only as regards the period for which penal servitude was allotted as a punishment, but also as to the place where that penal servitude should be passed?—It would be more a matter of the administration of discipline, I think, than for the judge. The Secretary of State has the power to carry out the penal servitude at home or at Gibraltar, or Bermuda.

1383. Sir *J. Pakington.*] You are aware that under the existing law, the sentence not uncommonly passed heretofore of 20 years' transportation is commuted for a term of not less than six, nor more than 10 years. You have suggested to-day that there should be another substitute for 20 years' transportation; namely, seven years' penal servitude, followed by 15 years' transportation?—Yes.

1384. Do you not think that the substitution which you have suggested would be much more severe than that which it stands in lieu of?—I think perhaps it would be.

1385. Mr. *Adderley.*] I presume that in the new scale which you have suggested to-day, your idea was, not that any exact number of years was absolutely essential, but the general scheme of combining penal servitude with transportation was the nature of your suggestion?—It was more to lay before the Committee the kind of scale, and the kind of objects which would require to be provided for.

1386. In fact, was not the idea of combining the two sentences in your mind, that of providing for another mode of discharge as different from that of tickets of leave?—No.

1387. I understand your evidence to be, that you advise that we should either shorten or abolish altogether what we may call provisional discharge in this country, under tickets of leave?—Yes.

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

1388. And I understand your proposal to add sentences of transportation to those of penal servitude, to provide another mode of discharge at the completion of sentences of penal servitude?—In all cases where sentences of transportation were passed, I merely proposed that they should be carried out as at present, with a slightly varied amount of penal servitude. The transportation, as at present, would be looked upon as a means of disposing of the men to their own advantage.

1389. Do you consider that the system which is now practically substituted for tickets of leave can be a permanent system; namely, the gradations of treatment under the terms of a Notice which you quoted as having lately been established in the Government prisons?—I think that the gradations which are now established do furnish some considerable motive to industry; but I very much doubt its being equal to what we shall require if we wish to attain to the same amount of moral discipline which we have hitherto had at Portland and other prisons.

1390. The gradation of privileges established by that notice was meant as a substitute for tickets of leave?—It was not meant as a substitute for the tickets of leave.

1391. As a motive for good conduct?—Yes; it is rather a motive in place of a remission of a period of the sentence.

1392. Is it your opinion that if we do retain any such remission of sentence, it should rather be upon a fixed system of periods than upon a mere vague discretion in the breast of the Secretary of State?—That, I think, would not be of much importance, if it were understood, and if it were generally acted upon. The Secretary of State has always laid down a minimum period of imprisonment; then a longer period of imprisonment depended upon the man's conduct.

1393. Then you would not object to the sentence, in fact, being perfectly elastic, by an arbitrary discretion in the breast of the Secretary of State?—I think there should always be a fixed minimum. What I explained, with a view of placing the subject before the Committee, was, that if, instead of the present sentence of four years' penal servitude, a sentence were passed of five years, with an understanding that it might be remitted by the Secretary of State to four, that would furnish a better motive to good conduct than the present gradations of punishment.

1394. You propose that the discretion of the Secretary of State should be limited to a scale of fixed periods of remission?—As far as the minimum of imprisonment went.

1395. Is it not the case that any such gradation of privileges as you have quoted being introduced by notice, must more or less have the fault of being little known by prisoners?—it is thoroughly known to all the prisoners, because each man has it in his cell in separate confinement, and it is hung all round the prisons, in those prisons where there is association.

1396. Still those who cannot read are not made acquainted with it?—It is fully explained to them; it is read, I believe, once a month to those who can read and those who cannot.

1397. Still such notices are unknown to the criminal class out of doors?—They are unknown out of doors, and perhaps for this reason, that it would be desirable to conceal as much as possible the little remissions and indulgences which accompany gradations of imprisonment, and to let it be thought out of doors to be a severe sentence when in reality it was not quite so severe as it was believed to be.

1398. But unless the terms of the remission are equally notorious with the sentence to punishment, do you not run the great risk and disadvantage of uncertainty of system?—No, the uncertainty is not much; the period of confinement is, after all, the period which both the men in prison and the men out of prison look to: but I think it would always be of advantage that, retaining the severe aspect of the punishment, it should be awarded as mildly as was consistent with the preservation of discipline and the other objects of the sentence.

1399. Is there not another disadvantage in any such system of privileges published by notice in prisons, that the system becomes very complicated?—No, it is not found so; we have no trouble.

1400. Do you not consider that the scale of treatment by Notice which you have quoted as part of the old Portland system, and the Notice which has lately been substituted for tickets of leave, are both complicated systems?—They appear so to those who have not to work them; but the prisoners thoroughly understand

understand it, and the officers who have the working of the system do so; there is very little difficulty, though it looks complicated.

1401. You stated that you thought that we had had time to judge of the system lately adopted?—Yes.

1402. But we can only judge of the system of tickets of leave from their application to a class of men who have not come under sentence since the Act passed?—I apprehend that those under sentence of penal servitude at this moment are the same classs of men as those who were formerly under the sentence of seven and ten years' transportation.

1403. Would they not come under the privilege of tickets of leave under very different circumstances from those who have been sentenced since the Act?—None have been released who have been sentenced since the Act.

1404. Can you judge of the effect of a ticket of leave upon a man sentenced under the Act, from the effect of a ticket of leave upon a man who was under sentence at the time of the passing of the Act?—Scarcely; because the remission which might possibly be made of a four years' sentence would not, probably, exceed six or nine, or at most 12 months, and there would be a short period for which such a man would be under a ticket of leave; whereas a ticket of leave in the case of a 10-years' man extends to the full period of his sentence of transportation.

1405. Am I to understand that the principle upon which commutation of sentence was carried out with reference to those 6,700 men under sentence at the time of the passing of the Act, was rather a vague and uncertain principle?—No, it was carefully considered.

1406. It rested, in the first place, I understand, upon the supposition that the prisoners under sentence felt a disappointment at the passing of the new Act?—Very great disappointment at being prevented from embarking for Van Diemen's Land.

1407. Their disappointment of transportation was one ground upon which the commutation rested, and their exemplary conduct was another?—Yes; the practice formerly was to release the seven-years' men at the expiration of half their term of sentence. These men had had before them the notices which gave them hopes that if they conducted themselves well, the seven-years' men would be embarked at the end of two years.

1408. Were not the two grounds, namely, the supposition of disappointment at the passing of the Act, and the amount of exemplary conduct of these men, somewhat vague and arbitrary as a foundation upon which to base the commutation of sentence?—I think not; the former practice was taken into consideration; and looking to the disappointment which these men had had, it was only a remission of about six months with the seven-years' men. The period in which a seven-years' man is released now, if he has conducted himself well, is three years; under the former practice it would have been 3½ years, and he would have gone away perfectly free, whereas the ticket of leave now presses upon him for the remainder of his sentence.

1409. Is it not the case that the principle of commutation then was so rough a principle, and so different from any principle upon which a ticket of leave would now be granted, that you can hardly judge from the effect of one, what would be the effect of the other?—The period that they should serve before receiving their tickets of leave was very carefully considered; it was the subject of a long correspondence between the Home Office and myself.

1410. With regard to the revocations of licence, can you state at all what proportion of revocations have been for new offences, as compared with the revocations on the ground of suspicious circumstances of life?—I think almost the whole are for new offences.

1411. Still, have a certain number of licences been revoked on the ground of suspicious circumstances?—I cannot charge my memory, but I scarcely know an instance.

1412. With regard to the large proportion of men discharged on tickets of leave, going to the two counties of Middlesex and Staffordshire, I conclude that the cause of those two counties having a larger proportion was, that they offered more facilities for employment?—No; the men generally go back to the places from which they came. I think it more accurately represents the proportion of criminals in those counties, or the proportion sentenced in those counties.

1413. In suggesting an elasticity as to the terms of detention, I conclude that you

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

you rely upon internal discipline as giving a sufficient scope for motives to good conduct?—Yes, very much.

1414. You think that that may be relied upon?—Yes, I think we have full experience to justify that opinion.

1415. Do you to any extent adopt Captain Maconochie's views of the substitution of task sentences for time sentences?—I think the plan carried out in its integrity is absolutely impracticable.

1416. To any extent?—To any extent. The motives suggested by Captain Maconochie and the objects of discipline may be the same; they are the broad motives of reward and punishment influencing human beings; but those are laid down in the Bible.

1417. Do you think that there is more scope in Government prisons for such internal discipline than in common prisons?—Much more, for this reason, that in common prisons you have to deal with very short sentences; those sentences do not afford the means or any hopes of effecting reformation, and therefore you trust to the punishment being the deterring element of the sentence, and not the length of the sentence.

1418. Owing to that difference of sentence I understood you to say that you considered the common prisoners were a class who gave more legitimate grounds of alarm to this country than the Government prisoners?—That was owing to the much larger number of them, and the much larger proportion of recommittals.

1419. Do you consider that the two classes of prisoners can be put into the same category?—No; I scarcely think it would be expedient; I do not think it is a good plan to mix short and long term prisoners together; it disturbs the discipline, and gives the means of communication between prisoners and their friends out of doors.

1420. I understood you to say that you consider that the main improvement to be looked to is in the modes of taking care of prisoners on their discharge?—I think it is of great importance that prisoners should be assisted a little on discharge. Those who are discharged from the Government prisons are, as far as we can do so, assisted, but I believe that very few of those who are discharged from ordinary prisons receive any assistance at all, and I attribute the number of recommittals in some measure to that circumstance.

1421. Would your proposals, with reference to taking care of discharged prisoners, apply to both classes of prisoners, Government and common prisons?—Certainly.

1422. I understood you to say, that any institutions for the care of discharged prisoners would be better in the hands of private individuals than in the hands of Government?—I should think so.

1423. Have you any evidence to give the Committee as to the experience of such institutions, further than what you have already stated?—The experience in Paris is extremely satisfactory, but it refers chiefly to juveniles. There is an establishment there under the immediate superintendence of Monsieur Bérenger, and the number of those who have been rescued from a course of crime by the assistance which they have received is most gratifying.

1424. Is that an institution in the hands of the Government or in the hands of private individuals?—In the hands of private individuals; but all those prisoners who are released on licence *provisoirement*, are paid for by the Government at the rate of, I think, 75 centimes a day.

1425. Do you see any reason why a similar system should not be applied to adult prisoners?—I do not see any reason at all why it should not.

1426. You made use of the expression that transportation was equally convenient in the disposal of adult prisoners as the system of *patronage* for juveniles?—Yes.

1427. Did you mean in that answer to draw any distinction, that the two classes were not equally to be dealt with by the system of *patronage*?—No; I have always advocated some assistance being given to adult prisoners as well as to juveniles. The juveniles, perhaps, are more in need of it, but it is an equally important element as an adjunct of prison discipline.

1428. Can you give us any further information as to such institutions abroad?—No.

1429. Do you know of any such institutions, either established or being established,

established, in England?—I have no precise knowledge of it; there is an institution in Westminster, well known to the public.

1430. *Chairman.*] Do you mean the one with which Mr. Nash was connected?—Yes, the one which Mr. Nash had formerly.

1431. Mr. *Adderley.*] Do you consider that such institutions, generally established throughout the kingdom for adult criminals on their discharge, would get rid of most of the difficulties as to such prisoners finding employment?—I do not think that it is desirable to assemble prisoners in the way that they are assembled at Westminster; I should rather prefer a system of assistance without assembling them, if it were possible. It may be necessary in some instances to have a place to which they can come for sleeping, but a good deal of assistance may be afforded to the men without bringing them together.

1432. The object is to get them a sort of transitional employment, in order that they may regain their character?—It is.

1433. Have you sufficiently considered the subject to give us your views as to the nature of such an institution?—I have not formed any definitive plan upon it, because I felt that it must fall upon private individuals to form these institutions. There is so much benevolence in this country, and there are so many ways in which it is applied, that when the subject comes fairly under consideration, I should hope that the question would be resolved.

1434. Private individuals disposing of such men abroad would avoid the difficulty which Government has in helping discharged prisoners to emigrate?—The Government, of course, could not assist directly in any scheme of emigration for prisoners discharged from gaol; but private individuals who took them under their care could do so, and that was one object which I contemplated in suggesting a contract with the directors of the Refuge for the Destitute, that they would be enabled to assist the female prisoners who were confided to their care to emigrate, affording an opening which the Government could not avail themselves of.

1435. You cannot state generally the comparative success of institutions of the sort in Europe taken up by Government with that of those taken up by private individuals?—No.

1436. But what I understand you to suggest is, that private individuals should contribute from their private means for the purpose, and should enable in various ways discharged prisoners to disperse themselves where employment could be found for them?—That is the simple object to which benevolent efforts might be directed with great advantage.

1437. Mr. *B. Denison.*] Is a ticket of leave at all advantageous to the public?—In no other way than as it may possibly act as a restriction upon the man.

1438. Is a ticket of leave at all detrimental to the future interests of the man?—I think it is, for the reasons I have before stated.

1439. Could a released convict conceal from his neighbourhood the fact whether he had a ticket of leave or not?—It is possible he might if he were in a large town: he could not in a country district, if it was the place of his birth.

1440. Has transportation, in your opinion, as a whole been more advantageous to a convict than confinement in prison at home?—I think so, certainly.

1441. Will you state why?—The generality of the convicts who have been transported have looked forward to their embarkation with very great hope, and the greater proportion of them have obtained employment in the colonies, and been placed in circumstances which, I should think, would be even more favourable than those of a similar class who had emigrated.

1442. As regards the mere punishment, are you of opinion that certain penal servitude at home would operate upon the convict population more effectually than a sentence partly of penal servitude and partly of transportation?—I think so, because, if we are to judge from former experience of the periods of penal servitude and imprisonment which have been annexed to a sentence of transportation, those periods have been very much shorter than the corresponding periods would be if the whole period was served out under penal servitude.

1443. As regards the mere punishment, are you of opinion that certain penal servitude at home would operate upon the convict population more effectually than a sentence partly of penal servitude and partly of transportation?—I am hardly prepared to answer that question. The criminal himself would most certainly regard a short period of penal servitude, followed by a long period of

Colonel *J. Jebb*, R. E., C. B.

22 May 1856.

transportation, as less severe than a long period of penal servitude; that is a matter of fact.

1444. Do you see any probability of a new penal colony being formed, to which convicts could be sent?—As I stated before, Mr. Elliott can speak upon that point with much more authority than I can; but I entirely concur with him in considering that it would be a very difficult thing to accomplish.

1445. Then, assuming that there is no great probability of finding a new colony, must not we provide, in the best mode we can, for dealing with convicts at home?—That has always been my view, because I have felt that in such a country as this we ought not to be dependent upon the will of a colony for carrying out the sentences of the law.

1446. Mr. *Deedes.*] Supposing there is no further vent for sending men to a penal colony than exists at present, are the establishments sufficient now for carrying out the system of penal servitude at home?—Yes. We have full accommodation at home, and at Bermuda and Gibraltar, and in Ireland, I think, for carrying out to any extent sentences of penal servitude on the numbers that we may suppose would come upon the hands of the Government. We have at this moment a prison for 1,100 at Chatham, not yet open.

1447. Lord *Naas.*] Why was it that the attempt failed which the Government appear to have made to induce the society called the Refuge for the Destitute to take some of the women?—Chiefly on considerations of a financial nature; the accommodation at the Refuge for the Destitute did not admit of their taking any great number from the Government prisons, and they would have had to build to a great extent to enable them to enter into that contract. The difficulty that arose at the Treasury was in what way this money was to be secured to the Refuge for the Destitute in the event of their laying it out. That was the first difficulty which occurred; and during the discussion which followed the Government changed, at least Sir George Grey came to the Home Office, and, I think, his view was, (and I could not but concur in it,) that there would be some difficulty, as a general rule, in remitting so many of the sentences and so large a proportion of them, and placing the custody of the females in the hands of others than the Government.

1448. Then such an attempt is not likely to be renewed?—I think not.

1449. Do you concur in the opinion expressed by Captain O'Brien, that the greater number of the women who have been released upon licences, especially the older ones, will sooner or later find their way back to the prisons?—I very much fear that the difficulties in the way of a woman retracing her steps, and finding employment when she has lost her character to the extent which she must have done in first of all being sentenced, and then in the fact of her being released from a prison, will interfere with her obtaining employment.

1450. The cessation of transportation, I suppose, throws a greater difficulty in the way of these women finding any employment after the expiration of their sentence?—No women have been sent to Western Australia at all; the whole of them are now dealt with in this country.

1451. Have you any plan which you can suggest to the Committee by which these tremendous evils which are described by Captain O'Brien with regard to the women could be averted; he says that they become servants in disreputable places; that they become servants in brothels and places where stolen goods are received; in places where there is vice and poverty, and where there is all that is immoral?—The only suggestion which I can make (and I cannot too earnestly press it) is the formation, if by any means it can be promoted, of refuges, to which these poor people can go, and the Government assist them to a certain extent.

1452. Would not a person who leaves a refuge be in a very little better position than a person who leaves your establishment at Fulham?—She would be in a much more favourable position, because, after a residence of six or eight months at the refuge, as soon as the directors of the refuge were satisfied that they could rely upon the conduct of the women, they would either assist them to emigrate or find places for them. There is another institution at Manor Hall under Miss Neave, which has been very successful in finding places for discharged prisoners.

1453. Have any been sent who have been sentenced to penal servitude or transportation?—One or two from Brixton have been sent, but I am now speaking of prisoners discharged from ordinary prisons. I have heard that they

they have so many applications upon their books for the services of women whom they can recommend, that they cannot always supply the demand.

1454. Do you think that a sufficient number of institutions of that kind are ever likely to be formed in the country to take that portion of our female convicts who have behaved well?—I think that, as regards Government prisoners, only a proportion of the women would require to be assisted in that way. Many of them are women who have families, to whom they return; others have friends who would assist them; but the remainder, who are destitute, require a helping hand before they can get employment.

1455. But you could not expect these societies to deal with any women except those who have conducted themselves well in prison?—No. I think that *patronage*, to use the French term, can hardly be extended to any who have not earned by good conduct some confidence from the persons under whom they have served; it is almost a necessary condition, I think, of the system, that some reliance may be placed upon those who are recommended.

1456. Then, under the present system a great number of those women who have not conducted themselves well in prison, would at the expiration of their sentence be returned to those courses which Captain O'Brien has described?—Yes, I should fear so. Every assistance that is practicable is given them. Mr. Moran, the chaplain, and Mrs. Martin, the superintendent, take great trouble in ascertaining the means of employment, and what degree of assistance can be given to every woman who goes away.

1457. The proportion of ill-conducted women in prison is very large, is it not?—No, I do not think it is.

1458. Nearly half?—The system of prison discipline applicable to women has hardly had a fair trial yet; it is only just brought into operation as a system.

1459. Do you not think that the objections to sending women of this description back upon society are far greater, both as regards themselves and as regards society, than exist with regard to men?—Yes; the evil, however, is less in degree, because the number of female prisoners does not exceed about one-fifth that of the males; but if transportation were continued in any form, I would earnestly contend for a proportion of females being sent; I think it should be so, not only as a matter of principle, but as a matter of convenience to the Government.

1460. Do you think that if transportation took place to a colony, the modes of employing women are more applicable to their circumstances than to those of the males?—It is a much more certain way of disposing of them than they can possibly get in this country; and so long as transportation continued to Van Diemen's Land there was very little difficulty, I believe, in those women doing well.

1461. Mr. *Deedes*.] You stated, in answer to the Noble Lord, that until lately you thought that no good system had been applied to women?—Yes.

1462. What new system do you allude to?—Up to the period of the discontinuance of transportation to Van Diemen's Land all the women were sent out there very soon after conviction; they were merely assembled at Millbank for, perhaps, two or three months, and were then embarked to Van Diemen's Land, where, after a short probation, they obtained tickets of leave; therefore on the cessation of transportation an entirely new system had to be considered; Brixton prison was purchased for the purpose of commencing it.

1463. That was the system to which you alluded?—Yes.

1464. Mr. *S. Fitzgerald*.] Will you explain how it is that you have sent no women to Western Australia; for what reason is it?—The colonists refused to receive them; I strongly advocated the importance of it at the time, and the Duke of Newcastle, who was, I think, Colonial Secretary, referred to the inhabitants of Western Australia to know whether they were willing to receive females as well as males. They refused to do it; but I believe it was because they had the hope of getting female emigrants.

1465. Mr. Serjeant *O'Brien*.] You mentioned that the reformatory institutions would be better supplied by private funds than by Government. Will you tell me why?—I did not exactly refer to the funds, but I stated that private individuals unconnected with the Government would work them better.

1466. Will you explain the grounds of that opinion?—The grounds are, that there cannot be a direct interference by the Government in the disposal of prisoners, and that the numerous little questions which arise, of who can take them,

Colonel *J. Jebb*, K. E., C. B.

22 May 1856.

and where they can be sent to, and how they can be employed, are much more favourably worked out by individuals who really take an interest in the work, than by any Government officials appointed to such duty. It can only be carried on effectually from a pure love and desire of doing good to their fellow-creatures.

1467. You have stated that you think it would be advisable to have a period of five years' penal servitude, and some eight or ten years' transportation afterwards substituted for the punishment of fourteen years' transportation?—Yes. My recommendation was, that it would have a more certain appearance in the eyes of the criminal population if they knew that a sentence of transportation would be so carried out.

1468. It can be carried out in that way under the present system?—It can.

Captain *Walter Crofton*, called in; and Examined.

Capt. *W. Crofton*.

1469. *Chairman.*] I believe you hold the office of Chairman of the Directors of Convict Prisons in Ireland?—I was appointed Chairman of the Directors of Convict Prisons in Ireland under the Act of the 17th & 18th Victoria in 1854. In 1853 I was on a Commission of Convict Inquiry in Ireland, and for some years previous to that, as a county magistrate in England, I had given great attention and consideration to the subject of the treatment of criminals generally and the prevention of crime. I mention this to the Committee to show that any opinion which I may give is not alone derived from my official connexion with the subject.

1470. What was the state of the Irish convict prisons at the time when this Act into which we are now inquiring was passed?—As deplorable as it is possible to conceive; the prisoners were morally and physically prostrate in every way. There was a want of the element of hope in them, of education, and of everything one would wish to find in prisoners, and which exists in the convict depôts in England. The prisons were overcrowded to a great degree, and my statement will be corroborated by my reading a despatch from the Governor of Western Australia, who had just received a large number of Irish convicts.

1471. What is the date of that despatch?—September 11th, 1854. The prisoners had left Ireland before our Board was formed. I will read an extract of a few lines from our First Report, which introduces this despatch: "The deplorable aspect and apparent destitution of the Irish convicts appeared to us to require immediate attention, and we have endeavoured as far as possible to remedy this state of things, which contrasts strongly with the condition of those in England. Our opinion is corroborated by extracts appended from the Reports of the Governor, Comptroller-general, and Superintendent of Convicts, &c., in Western Australia, dated 11th September 1854, and forwarded for the information of the Secretary for the Colonies, —extracts from a despatch from Governor Fitzgerald to the Right Honourable Sir George Grey, Baronet:—'11th September 1854. Some of the Irish prisoners, per ships 'Phœbe Dunbar,' and 'Robert Small,' have proved in many instances, I regret to say, an exception to this very gratifying state of things; the result of recent experience and close observation of these men, you will perceive, induces the Comptroller-general to hope that men from the Irish prisons will not be sent to this colony with tickets of leave. If, therefore, future drafts be sent, I fully concur with the Comptroller-general in thinking that this class of prisoners, more especially than any other, should remain inmates of the prison at Fremantle, under rigid control, for at least twelve months, to give any hope of sending them forth into the community trained to habits of industry and self-reliance, which they appear to be somewhat indisposed to exercise in general.'" Then there is an extract from the Report of the Superintendent, under date of 10 January 1854, which was two or three months afterwards, with reference to the same subject: "In the instances of the Irish prisoners received per the ships 'Robert Small' and 'Phœbe Dunbar,' it was held by judicial and medical authority that their prostrate condition, physically and morally, the result, it was conjectured, of long imprisonment, low diet, and bad training, rendered it necessary that they should be subjected to a course of preparatory discipline, arbitrary in duration in some cases, but relative and proportionate to the term of sentence in others, prior to their being exposed to the trials of a strange climate and novel society; and certain compensating allowances in these arbitrary cases were then discussed and decided upon." It then says, "But it may be remarked

marked as a noticeable feature in the idiosyncracy of the Irish prisoners, that is to say, those who arrived direct from Ireland, and who had not undergone the present discipline held applicable to convicts sentenced in England, that there appears a singular inaptitude to comprehend the nature of moral agencies, or to be affected by them ; neither do they seem to understand the desirableness, we will say, of self-reliance, or the necessity for the exercise of habits of propriety, industry, and prudence, as a means towards extricating themselves from the consequences of former errors." I am reading this corroboration of what I have stated to lead the subject to the reason why tickets of license were not issued in Ireland until recently. What the Governor of Western Australia thought that he could not do in Western Australia, viz., to give them tickets of license. we felt, for similar reasons, as directors of convict prisons, we could not recommend in Ireland. These reasons have been pretty well explained from his letter and from what I have stated. I will, however, read a few additional lines from our Report : "The same feeling which prevents our inflicting on a colony convicts who have not been subjected to a proper course of prison discipline, also precludes our bringing forward prisoners for discharge in this country on tickets of license, as in England. We consider such ticket of license to be a sort of guarantee to the community, that in consequence of a prisoner having been subjected to a proper course of prison discipline and reformatory treatment, he is considered a fit subject to be received and employed by those outside the prison. Such reformatory course not having hitherto been pursued in this country, we have not felt ourselves justified in recommending the issue of tickets of license."

1472. You did not for some time after the passing of the Act recommend any such issue?—We did not recommend it until within the last five or six months.

1473. Did you take any steps in the meantime, with the view to recommending it subsequently?—The first steps that we took were to establish a proper system of discipline to enable us ultimately to carry out the Act. The first part of that system was to remedy the overcrowding which existed. There were upwards of 1,000 more in the prisons than they could properly hold, and the Lord Lieutenant (Lord St. Germans) considering that the best course to relieve this overcrowding was to take the Penal Servitude Act as a basis with regard to the punishments, in which a four years' sentence of penal servitude is considered adequate to seven years' transportation, and six as the maximum of 10 years, &c.; we were then instructed to prepare a list of prisoners so circumstanced, and recommend the best conducted that we could find of them for discharge from time to time, absolutely. This was done, and at last the prisons were reduced to some sort of order, so that we could arrange them and establish a proper course of discipline, taking care that the system of separate imprisonment was commenced with, and then following out the English system with regard to public works afterwards, establishing gratuities to give convicts the element of hope, and induce them to conduct themselves properly.

1474. Lord *Naas.*] When was the Irish Prisons Act passed?—Since the Penal Servitude Act.

1475. What is the date of it?—August 7th, 1854.

1476. Was there any previous Prisons Act passed for Ireland?—No, excepting a very old Prisons Act.

1477. There were no Acts of Parliament relating to Ireland, similar to those regulating the management of Pentonville, Millbank, and the prisons here?—No.

1478. Then in fact there was no legal authority till 1854 for the management of the Irish convict prisons?—There was not.

1479. Mr. *S. Fitzgerald.*] Does your observation as to the crowding of the prisons refer only to the convict prisons, or generally?—Only to the convict prisons.

1480. *Chairman.*] Will you proceed to state what other steps you took with reference to the carrying out of this Act?—I must trace the matter up to that time, in order to show how it has worked gradually to the present. We found that there was no separation for the juveniles; the juveniles and adults were all together in the convict prisons. Our first act, therefore, was, to recommend the erection of a penal reformatory. I call it a penal reformatory, to make it as distinct as possible from the general character of a penal prison.

Capt. *W. Crofton.*

22 May 1856.

There are now in the Irish prisons, out of a number of 2,600 males, 700 (I am speaking in round numbers) convicted under 17 years of age. I found, on examination of, perhaps, 180 or 200 of these, that from bad training and ignorance, they required a certain system to be pursued, which should partake a great deal more of the reformatory element than the penal; therefore this prison was recommended to be of a penal reformatory character, in order to introduce that element. This has been approved, and an Act passed for inclosing Lusk Common for that purpose.

1481. Whereabouts is that?—Within 11 or 12 miles of Dublin. In the meantime we separated the juveniles from the adults, and pursued a proper system with them, so far as we were enabled to do so. We then found, by examination in the different prisons, that the educational departments were extremely neglected; that though there was some teaching, there was no training; and that really the ignorance was the most deplorable thing which could be imagined, not the fault, probably, of the prisoners themselves, but of those who were teaching them. We at once selected two schoolmasters, whose antecedents gave us hopes that they would effect good amongst the prisoners. One was a ragged-school teacher, and the other had been a schoolmaster in a large union, where he had had a great deal of experience. We recommended their being appointed head schoolmasters for the prisons, and also being sent at the expense of the Government, to visit the different penal and reformatory establishments in this country, for the purpose of seeing the sort of principle which we expected them to act upon and carry out in the prisons. This they did, and I am happy to say with the most gratifying results; for, notwithstanding the state of things which existed formerly, we have been able within this short time to report very differently, and the alteration with regard to the prisons is obvious to any one who visits them. We have been enabled to report now, that "In our last report we complained of the inefficient state of the educational departments of the convict depôts, and stated the importance we conceived should be attached to them in this country, recommending, at the same time, that they should be placed under the inspection of the National Board of Education. Experience has proved that we were correct in our opinion; the report of Mr. M'Gauran, the head schoolmaster at Mountjoy prison, showing that after a very careful examination of the prisoners at that establishment he found that 96·2 per cent. were almost without any education at all; a fact, we submit, calling for every exertion to render the educational machinery as perfect as possible, in order to open the minds of the prisoners by a system of training as well as teaching. Sensible of the very great importance of establishing a proper system of education in the prisons through which, unfortunately, thousands of human beings must pass, who are in turn subjected to its influence, we are gratified at being enabled to state that, although much of the past year has been taken up in arranging schoolrooms, classifying prisoners according to their attainments, appointment of schoolmasters, &c., a great desire has already been evinced by the prisoners to receive instruction; and this is more remarkable, as proceeding from some advanced in age who, at the commencement of the year, attended school with the greatest reluctance," and that is quite true; it was with the greatest reluctance we could get them at first to come to school, but afterwards they came willingly, and the progress which the prisoners have made within the last twelvemonth is perfectly marvellous. But then, the schoolmasters have had their hearts in the work, and have led these men's minds, such as they were, to the utility of education; and certainly the fruits have been much more than could have been expected.

1482. Lord *Naas.*] What prisons are those to which those schoolmasters are attached in Ireland?—One master, I am sorry to say, left us for Australia a few months ago; the other is at the model prison of Mountjoy. We trained several other schoolmasters under these two persons, so that a uniformity of system might prevail throughout the prisons, and which therefore told, not only with regard to those prisons which these two masters were in, but throughout the establishments.

1483. Were all the old schoolmasters got rid of then?—They were all got rid of with the exception of one.

1484. *Chairman.*] Was the course which you adopted with regard to female convicts somewhat similar?—Yes. We were fortunate in getting two schoolmistresses, and certainly have attained the greatest possible results from their appointment.

appointment. The state of the female prisoners was really deplorable, and we have large numbers of them, for in the convict establishments we now must have nearly 700 female prisoners.

1485. Have the results there been equally satisfactory?—The results there have been quite extraordinary. Women who seemed so lost, that when you entered the prisons, you felt there was a character about them which was in every way to be deplored, are now totally different, and persons who now visited them would see what these schoolmistresses have achieved, for I look upon the improvement as principally due to education. The great desire now with the women is to come to school and be educated and enlightened; formerly it was their endeavour to keep away from it. The value of a certain kind of education, not a high education, but a moral training, is felt throughout the whole establishments both by males and females.

1486. You have also effected a system of separation of juveniles from adults?—Yes, temporarily, until our prison is erected. We are now commencing to erect a juvenile prison at Lusk; but at the same time we are enabled to place them separately from the adults, and successfully to get on with them, I hope.

1487. How soon was it that you thought yourselves justified in adopting the issue of tickets of leave?—About November last, we felt that we had some grounds to suppose that they might be issued carefully, and under proper safeguards.

1488. What is the plan which you have adopted for that purpose?—The plan is by the institution of intermediate establishments between the prisons and the world. We found that men discharged out of the prisons in the ordinary way were perfect children; they did not know what to do; they had not been thinking for themselves for years, and were dependent upon every person they came near; and whatever might have been their intentions to reform, the moment they were outside the prison they fell into their old evil associations again, and were quite astray as to what they should do. This was partly what induced us to recommend a system of intermediate establishments. We thought also that we should be enabled to place them in a position in which the community would be rather more satisfied with the test of their reformation; for unless the community would employ the discharged criminal, we felt that whatever we might do in prison, the difficulty was not solved. It is quite clear from what has occurred in England, and what has been going on for some time, that that has been the great difficulty. The people are not satisfied without a test of a man's character, however exemplary you might term him and consider him in the prison, where he is watched by prison officers and every one around him, still it is not considered by the world as satisfactory as if he was placed in a position where he would be exposed to temptation: we therefore recommended the institution of these establishments, where the men would have greater freedom of action.

1489. Lord *Naas.*] What establishments are those?—There is one in Smithfield, in Dublin. We have Smithfield Prison, as an industrial establishment (if I may so call it), to hold 60 or 80, and another at the mouth of Cork Harbour (Fort Camden). Our object in having small numbers was, because we felt that individualization might be brought to bear upon them, and that we should really be able to get at the characters of these prisoners better. Smithfield was commenced in January of this year.

1490. The system was altered?—Quite so; the prison was converted into an industrial establishment. Of course the arrangements had to be altered. I will explain in detail the arrangements at work at Smithfield, with the results that have as yet taken place, and the numbers which we have discharged from it, both on licence and absolutely.

1491. *Chairman.*] What is the first point to which you propose to draw our attention?—The rules which govern the establishment.

1492. When were they made?—At the formation of the establishment in January last. The number at Smithfield is from 60 to 80; the number constantly fluctuates.

1493. Lord *Naas.*] What is the number at Fort Camden?—Eighty-five.

1494. Is the management at Fort Camden and at Smithfield precisely the same?—The management is, but the class of prisoners is different.

1495. Mr. *S. Fitzgerald.*] Do the rules state how the selection of the prisoners is made?—Yes.

Capt. *W. Crofton.*

22 May 1856.

1496. *Chairman.*] We understand that these rules are the rules now acted upon?—Yes, and they will explain the establishment at the same time.

1497. What are they?—"The Government convict establishments in Ireland, of an industrial character, are, Smithfield, in Dublin, and Fort Camden, at the mouth of Cork Harbour. There soon will be an additional one opened in Dublin, and another at Fort Carlisle, on the opposite side to Fort Camden. In Smithfield, tradesmen, such as tailors, shoemakers, &c., &c., and invalids, are employed. At Fort Camden there are able-bodied labourers, stone-masons, stone-cutters, carpenters, &c., selected principally from Spike Island, which is a large depôt for the employment of that class of men. At present only those prisoners sentenced to transportation are confined in these establishments. When convicts, by prison character and length of servitude (as three years out of seven years, and four out of 10, &c.), are thought eligible for tickets of licence, they are removed either to Smithfield or Fort Camden, according to their class, in which they are detained until they can procure satisfactory offers of employment, or give some sufficient guarantee that they have the means of earning an honest livelihood (for which purpose every reasonable facility and assistance is afforded to them), when they are released on licence. During their detention, their reformation and good intentions are further tested by giving them increased liberty of action, and by employing them, as far as possible, like free labourers. Every effort is also made for their further improvement by means of lecturers and other instructors, and attention is paid to render them in all respects fit to mix again in the world from which they have been long withdrawn. The lecturer, trades, instructors, and every one connected with the establishment, aid in procuring employment for those who deserve it, and who do not wish to return to their old haunts, even if employment were offered. No licences are granted to penal servitude cases. The system of gratuity in the prisons is dependent on classification, based on returns of discipline, school, and industry. When, in these establishments, they are paid according to the work they perform, a well-conducted prisoner serving four years would earn about 5 *l.*, or more. When the gratuity exceeds 2 *l.* (which is not very often the case in Ireland, in consequence of the classification having only been introduced within a twelvemonth) the balance is retained for three months, unless good reasons can be shown for its being paid sooner. The community are better satisfied to offer employment after this test. Prisoners are sent to perform work that may be required, and return in the evening to the establishment; they are allowed to spend a portion of their gratuity money. Everything, as far as possible, is made a test, and all the instructors not only give the public the benefit of their supervision, but also of their labour. Every person connected with the establishment has an active duty to perform. The hospital warder is a net-maker, and has his reading and writing class in the hospital. When once employment is accepted, the Government have no further cost, but exercise a supervision as far as possible. At the expiration of four years, should a prisoner sentenced to seven years' transportation be still in the establishment, he will be discharged absolutely, that term having been deemed equal to seven years' transportation. If it is found (and it has been found) that men with exemplary prison character do not stand the test required, they are returned to the prisons as unfit to be discharged on licence in a country requiring the greatest caution to be observed."

1498. What paper do you now hold in your hand?—This is with regard to the manner in which the time is employed. If the Committee would like to hear as to the employment of the prisoner's time, I have full details.

1499. The Committee would be much obliged to you for any details relating to this subject, which is a very important one?—Before I commence about the lectures, I will say that we were fortunate enough to find a gentleman who had been organizing adult evening schools throughout Dublin, a Mr. Organ; he was recommended by the National Board, as being a likely person to suit our purpose; he was appointed as lecturer, which will explain what I am about to state. Lectures are given every evening for two hours, of such a nature as to prepare the prisoners for the world in which they are about to mix, whether their destiny should be a colony or at home. I have with me the subjects of those lectures for a month; the headings of them I will read to the Committee (if they think it desirable), to show how these prisoners are instructed, so as to prepare them for the world. Should any prisoner misconduct himself, he is at once returned to the

the ordinary prisons. The prisoners receive constant visits from their respective chaplains. The employment of their time is from five in the morning until nine at night; the time for labour is 9 ¼ hours; exercise and meals, 2 ¼ hours; lecture, reading, and prayers, 3 ¾ hours; cleaning their cells and washing themselves, ¾ of an hour; so that they are employed for 16 hours out of the 24. There was a wooden building in the prison, fortunately, which we have turned into a sort of mechanics' institute and lecture-room, where these men study by themselves, and where these lectures go on, and which we make a mechanics' institute in the evening, but they are employed 16 hours out of the 24. Their dietary is coarse, but ample; the expense being about the same as it is in the prisons, with scarcely any difference. Their gratuities are 9 *d.* a week as a conduct gratuity, which they have obtained from the prison-discipline system; and in addition to that, they have now a small gratuity according to the value of the work which they perform. That would be inconsistent in a prison; a man might be a very good skilled workman, and yet an ill-conducted man; and, therefore, in a prison, to pay them in that way would be unjust; but assuming that they are all well-conducted men who came to this establishment, a man may then be paid according to the labour he performs: so that in addition to his conduct-gratuity he gets a gratuity for the labour he performs. With regard to the subjects of the lectures, I will read the headings of the lectures from the 17th of March to the 11th of April, to show the system as carried on: "Monday, Pursuit of Knowledge under Difficulties. Tuesday, Remarkable Inventions. Wednesday, New South Wales and New Zealand. Thursday, Man, his Duty to God, his Relation to his Fellows. Friday, the Atmosphere and its Uses. Monday, the Atmosphere and its Uses. Tuesday, Railways and Electric Telegraph, their Origin, History and Progress. Wednesday, Printing, and its History. Thursday, What a Man with Brains may do. Friday, Coal and the Coal Mines. Monday, Physical Geography and its Curiosities. Tuesday, the Electric Telegraph, and its Uses. Wednesday, on Self-denial and Decision of Character. Thursday, some Remarkable Inventions. Friday, Canada, and its Resources. Monday, the Seasons, the Calendar, and the Tides. Tuesday, Works of God. Wednesday, Wonders of Science. Thursday, Temperance, and the Cost of Drunkenness. Friday, what Machinery has done for the World." The men make their notes of the lectures as they go on; and on each Saturday evening there is a sort of competitive examination. Now, these men were lamentably ignorant when they entered that institution; they were perfectly uninformed, although many of them could read and write; but it is not the case now. Before they have been at work for two or three months, as Lord Carlisle (who is a visitor there three or four times a week), can testify, the competitive examinations which they go through are marvellous. They show that they understand these subjects, which I have been just alluding to, and that they can appreciate the advantage of going to a colony, or of doing well at home when out of the prison. There is another thing which I can speak of, for I have looked very much into it, and have seen very many men since they have left the establishment. I found that many who came there with excellent prison characters, yet came there with every disposition to go off to their friends again when tickets of license were issued; they were bent on returning to their evil associations in Ireland, and to the neighbourhood where they had been badly trained; but after a time, I found that many of these men felt it to be to their advantage to break these evil connexions, and preferred waiting on the chance of getting some situation in Dublin, instead of returning to their old localities, intending ultimately to get to the colonies, when they had saved sufficient money to pay their passage. There are now several in Dublin whom we have discharged; I have a list of the number. There are many doing uncommonly well who have got employment; their employers come themselves to attend these lectures occasionally. I have only brought evidence with regard to those men who have been out for about two months, because the first two months is generally the time when they would get into trouble. There are 23 discharged on license, who have been out for nearly two months. Altogether, 100 have gone through the establishment up to this date; but I am speaking of those who have had the test, and who have been out for the period named on license. Twenty-three have passed into the world through Fort Camden and Smithfield, and I can account, up to the present time, for the regular and satisfactory

Capt. *W. Crofton.*

22 May 1856.

employment and conduct of 21 out of the 23; but as I obtained the return very recently, only two days before leaving Dublin, the other two have not answered, therefore I cannot claim them. I think we are bound to show, not only that those who have been discharged are not re-convicted, but that they are doing well, in order to establish our case, that we have reformed them.

1500. You have ascertained that with regard to the 21?—Decidedly; and of 10 out of those 21 I can speak personally, because they are in employment in Dublin, and are going on satisfactorily and well. They constantly, sometimes once a week, and sometimes twice, attend these lectures. This of course is an example to those who are remaining in the establishment, patiently waiting till some employment comes. I find that these offers of employment, in consequence of good conduct, are coming in much faster; and, indeed, from the public coming to this institution, and seeing the way in which it is worked, the prisoners have the means of helping themselves, if they are willing to do so, by evincing their industry.

Lunæ, 26° die Maii, 1856.

MEMBERS PRESENT.

Mr. Baines.	Mr. Massey.
Sir John Pakington.	Mr. Beckett Denison.
Mr. Adderley.	Mr. Deedes.
Mr. Henley.	Mr. Seymour Fitzgerald.
Mr. Wickham.	Mr. Monckton Milnes.
Mr. John Wynne.	Mr. Ker Seymer.

THE RIGHT HON. MATTHEW TALBOT BAINES, IN THE CHAIR.

Captain *Walter Crofton*, called in; and further Examined.

Capt. *W. Crofton.*

26 May 1856.

1501. *Chairman.*] WHEN the Committee adjourned on Thursday, you were about to give some further details with regard to the new system adopted at the Government convict establishments in Ireland?—Yes.

1502. Will you proceed from the point at which you left off?—In recommending these establishments, we found that there was no new principle to be tested as to the treatment of criminals. We were merely adopting what had been found successful by philanthropic institutions in this country and on the Continent. All that was novel was its application to the convict establishments; and as the success of the philanthropic institutions which had been tested in this country and on the Continent was dependent upon individualising and acting on men in small numbers, through moral agency, our experiment, if I may so term it, was how we could adopt prison machinery, that is, the officers of prison establishments to become moral agents. In consequence of the vacancy of a schoolmaster, we were enabled to make a fresh appointment, which we termed that of a lecturer to the institution in Dublin. He was a person fortunately with a speciality for the calling, and was practically conversant with the different reformatory institutions here and on the Continent. There was therefore no difficulty in that respect; but we had to adopt the existing prison officers as our trades' instructors, and, as we hoped, our moral agents; and there was apparently our difficulty. A shoemaker instructor was put over his class of shoemakers, and told that he was to be responsible not only for the industry of the men under him, but also for their characters; that he was to make himself conversant with all concerning them. The same was told to every man in charge of a class; the tailor of his class, the carpenter, and so on. They were informed that during the time of instruction at the trades they were to converse with the prisoners, allude to the subject of the lecture of the preceding evening which they all attended, and in every way to act as moral agents throughout the number of hours that they were with them; in addition to which, they were to aid in procuring employment, where they could do so, outside the prison for the men on discharge. We find this work extremely well; we have now discharged 51 males on tickets of licence, and 18 females; 49 males have been

been absolutely discharged, making a total of 100 males who have passed already through these intermediate establishments, one at Smithfield, in Dublin, and the other at Fort Camden, at the mouth of Cork Harbour. I have had a return, and a very accurate one, collected of those who have been discharged on tickets of licence upwards of six weeks, and which would afford some test, because men when first they go out are more apt to get into trouble. I have a return of the 23 who were discharged, and who have been out six weeks and upwards; 21 out of the 23, I am prepared to prove, from the employers and from themselves, are doing well, and there is every satisfactory idea that they are reformed men. We have 10 or 12 now in Dublin, in employment, who constantly attend the lectures, though discharged from prison, and in many cases their employers come with them, which I think bears testimony to what the lectures have done for the prisoners. Our lecturer has lately, within the last fortnight or three weeks, thought of a plan (and to me it appears a very good plan), of collecting those men who are on licence in Dublin at fortnightly meetings in the evening, for the purpose of letting them put their savings in the savings bank; and one meeting has already been held, attended by every man in Dublin who has had a ticket of licence issued to him, and a deposit of 1*s.* from his wages has been made by each man to commence with.

1503. How long has that been done?—That meeting was about a fortnight ago.

1504. How long has it been the practice for this to take place?—That was the first meeting, the only meeting that has yet been held; and they all attended, to put down their shilling each out of their wages. Although I have only made a calculation with regard to those men on tickets of licence who have been out that time, yet there are many others who have been absolutely discharged, and have had the benefit, if I may so term it, of these intermediate establishments, who we know are doing well, whom I have seen personally many times; and I am quite sure they are giving satisfaction to their employers, and are going on in an honest course.

1505. Have you made it your business to have inquiries made respecting them?—Yes, and I have recently seen the employers of the men myself.

1506. What have been the results, so far as you have ascertained?—Most satisfactory. So far as regards the freedom of agency which these men have to do wrong in the establishment, we have on several occasions tried them in this way: I have employed them when public works have required it. A carpenter having been required at the Model Prison for some time, I have tried the experiment, if I may so term it, of sending one of these men every morning to this work, through the city, nearly two miles off, and back again, to return to the lecture in the evening; and he has done this for nearly two months, every day, by himself, no warder with him; and, passing by the public-houses, he returns regularly, and performs the day's work both to the good of the public service and to the satisfaction of the governor of the prison where he is working. I have sent down other prisoners with messages from one prison to another, and they have returned; many men, a week or a fortnight before the time of their discharge, I have allowed to go out and purchase their tools, so that they may not be out of work for any want of that kind, also their clothes; they have returned punctually. I have found no appearance of anything like drink on them, or of any irregularity whatever. Each man is allowed to spend a certain portion of his earnings; his earnings perhaps would average 1*s.* a week, and he is allowed to spend 6*d.* of it if he should so desire. There are many who have not drawn a farthing; they prefer keeping the money for the purpose of emigrating, in many cases. Others again have bought little matters for their breakfast, such as a herring, and their clothes, and their tools as they have required them, and so on. They dine together in a large hall which acts as a mechanics' institute, and their exercise is taken free from supervision; they are not watched in any way, and we have found no irregularity whatever; it is impossible to find a more orderly establishment in every way with regard either to language or conduct. There were three cases at the first opening, of men who were sent from the prisons, with respect to whom, after a fortnight's test, I found, although they came with exemplary characters from the prisons, they were not persons that would do to be trusted; they wanted that sort of watching which we could not give them, and were returned to the prisons. There is always, as will be seen, a sort of nucleus preserved in this establishment; and though large draughts come occasionally of 30 or 35 from the prisons, in the course of three or

Capt. *W. Crofton.*

26 May 1856.

four days they all settle to their places in consequence of this nucleus which is left, and the establishment goes on orderly enough. We have had 80 in at a time; there are at present only 60. It is important that there should be small numbers, because it gives greater facilities for individualising. With regard to the work performed, there is no doubt that considerably more is done than was ever performed in the prisons. There is an amount of willing industry that we do not find in the prisons generally; and as the trades' instructors in this establishment were the prison officers, they are very good judges with regard to the willing nature of the industry. In addition to this establishment at Smithfield, there are two others; one has been recently opened; the other has been open the same time as Smithfield; it is at the mouth of Cork Harbour. It does not present the same advantages as Smithfield for getting employment for the men, one being in Dublin, and the other isolated; but still I am satisfied that the working of it is good, that the same principle pervades it, and that we have reason to be satisfied with the officers who are there; of course they have been selected for the purpose from the different prisons, but we approve of its internal working.

1507. How long has that establishment been in operation?—It has been in operation the same time as Smithfield; it commenced in January last; and Lord Carlisle, who has looked thoroughly through the establishments, and is as practically conversant with the Smithfield one as I am, from visiting it three or four times a week, and looking over every book and register connected with it, is so satisfied with its working, that he has allowed us to establish others, and I have just opened another at the mouth of Cork Harbour, opposite to Fort Camden, Fort Carlisle, with the same number of prisoners, namely, 85. In a fortnight's time we shall open another industrial establishment in Dublin to hold 70.

1508. How many will you have altogether?—There are 230 prisoners at the present moment on this system; there will in a fortnight's time be 70 more, making 300.

1509. In how many establishments?—In four establishments. We are then going to erect (and they are in the course of erection) eight moveable iron buildings, the same as there were at the Curragh Camp, or at Aldershot, for the troops, to hold 50 in each, so that the same system can be pursued; that is, individualising in each prison or tent, if I may so call it, the 50 prisoners, and keep each sound in itself, with the power of moving these prisons as we wish, or as the public service requires.

1510. What kind of buildings are these?—Just like the soldiers' tents; we have, in fact, taken as a model what they had in the Crimea, at Aldershot, and on the Curragh. They are soldiers' iron rooms, lined, with beds in them, to hold 50, and an officer's room on each side; they are inexpensive. The great objection to convict labour has been that you must find a large public work, sufficient to warrant the erection of an expensive prison; and if you combine well-conducted prisoners and indifferently-conducted prisoners, and apply them to that sort of labour, it is necessary to have a kind of security which does cause expense. But if we make a good selection for small works, as we are doing, we need not be particular about the sort of security or the number of prison officers placed over them, and therefore it will be inexpensive labour to the public service. The first two buildings, which will be erected in about six weeks, will be on Lusk Common, about 12 miles from Dublin, and the men will be filtered out of these two prisons of fifties into the community. They will be employed there in erecting our juvenile prison, or rather in commencing it. Men will be brought up from the forts I have spoken of, where they have not the advantages which Smithfield affords, being isolated; they will be brought up from those establishments to this one at Lusk Common, and as contractors will be doing work close to them, they would be in a place to offer these people employment if they deserve it; their state will be just the same as that of the free labourers, so far as having opportunities of committing themselves. The expense of each of these moveable and lined huts, to hold 50 men and three officers, will be 330*l.*

1511. Mr. *Deedes.*] Is that the same price as the price of the Crimean huts?—Exactly; I took the Government contract for them.

1512. Mr. *Henley.*] Do the men sleep in an open room in them?—Yes, in hammocks.

1513. *Chairman.*]

1513. *Chairman.*] How many officers are employed in each?—With 50 men we propose placing three officers.

1514. Mr. *Henley.*] Are they in a separate room, or in the same room?—They will have little rooms off on each side; one at one end and one at the other, as non-commissioned officers have now.

1515. Mr. *Deedes.*] The beds are arranged on either side?—Yes.

1516. And the officers have a room at each end?—Yes.

1517. *Chairman.*] How many of these huts are you now providing?—We have contracted for eight for 50 men each, making 400; so that in two months we shall have 700 men on this system. It was a system which only wanted proving in its soundness with a small number first, because it is merely a multiplication of that small number; the same treatment which applied to the one would be good for seven or eight on the same principle.

1518. Do you contemplate any other advantages as likely to result from the system besides those you have mentioned?—I do indeed; and in considering that system, it was with a far wider view than merely as regarded tickets of licence.

1519. Will you point out the advantages which you anticipate?—We believe that it would be a substitute, and a very favourable substitute, for any general system of shortening sentences; it has been for some time generally felt that an uncertainty with regard to sentences is a great evil. However convenient (and I quite acknowledge the convenience) it may be for prison authorities to hold out, as an inducement to good prison conduct, that the prisoners should lose 25 per cent. of their punishment, or be released at the end of the third year instead of at the end of the fourth, I cannot think that such a course will tend to genuine reformation. I should be unbelieving in the reformation of any man who would require so strong a stimulus as to be let off one-fourth of his punishment to induce his reformation; I should infinitely prefer to see that man, with a well-modified system of imprisonment, at the termination of his sentence (such as that which I mention), in a situation where he can be tested before he goes out. I should hope that that would be a sufficient stimulus for any good prison conduct; if it was not, I should be very doubtful of the reformation of the man. I believe that the ticket of leave or licence, as it is called, in theory is good, but it appears to me to be practically stultified, because it requires such a delicacy in the supervision, the only thing that makes it valuable, on account of the paucity of the employment in this country, that it really is valueless. In a colony where people have no objection to employ a convict, the same delicacy of machinery need not exist for carrying it out; but if one is obliged to be so careful, that you cannot have a man watched, it appears to me that the value of your supervision is lost.

1520. Are you unfavourable altogether to the ticket-of-leave system?—I see that the ticket-of-leave system is so encompassed with difficulties in that respect in a country where there is paucity of employment, that I should infinitely prefer the other system.

1521. The system of establishments like those you have mentioned?—Yes; if a man has four years' imprisonment, I should give him three years, or two-thirds of his sentence at all events, in a strictly penal way, and afterwards on the footing I have just described, namely, either on public works, if an able-bodied man, or at such an industrial establishment as I have spoken of with regard to Smithfield; and more than that, I think there may be other inducements added, and no doubt they do require strong inducements to good prison conduct; I consider that by a certain arrangement in the details of these establishments, which we have not yet made, but which certainly would be worthy of consideration, we may afford prisoners a sufficiently strong stimulus, without shortening their sentences.

1522. Is not the hope that a man may improve his condition, or lessen the period of his imprisonment, a very great stimulus?—No doubt; but I think that we could find other means that will more test a man's reformation; the stimulus referred to may be a very convenient one for prison authorities, but I must say that if a prisoner did not consider what I should adopt a sufficient stimulus, I should be very doubtful of his reformation. I think if we only pursued in these establishments what they do pursue at Bermuda, where good and bad are alike treated as to the amount that they earn; or in Western Australia, where the lowest class of labourer, as a prisoner, receives

Capt. *W. Crofton.*

26 May 1856.

6 ½ *d.* a day, and many do receive 3*s.*, and 4*s.* and 5*s.* a day as prisoners, I say, that if we pursue the same system with regard to these establishments before we discharge them, and give them (we will put it at the lowest they give out there) 6 ½ *d.* a day (and there can be no error in our giving that to well-conducted men if the same principle is adopted in giving it to well and ill conducted alike, both at Bermuda and in Western Australia), during the time these well-conducted men are in them, it will be sufficient inducement to convicts to behave well in prison, and will have a far better effect, as enabling men to save a sufficient amount of money when they come out of these establishments to go as free men to the colonies, and without injury to the colonists, because we give them men whose reformation we have really tested, and whom we are glad to adopt ourselves and to absorb ourselves. Any man, if a calculation were made, would have enough earnings to go to a colony as a free man.

1523. Could you combine the advantages of the hope which you say would no doubt exist in the one case, with those other advantages which you contemplate as arising from your own system, so as to have the benefit of both?—I believe there is another inducement which would make the hope quite strong enough, but I must first of all assume a principle conceded; it is with regard to the system of transportation. I have never made an inspection of any prison where I have not found prisoners waiting to see me, begging as a favour that they might be sent to the colonies; it is looked forward to as a boon and a privilege, and short-sentenced men have invariably come to me, and begged that they might go out to the colonies; and as education advances with them, or they really understand what the colonies are, so I am persuaded will the desire increase to go to them. At Smithfield, where we have lectures on the colonies, and their different advantages thoroughly explained to them, I received a letter from 45 persons out of 60, all signing and begging to be sent to the colonies from there.

1524. Mr. *Henley.*] In the case of a man sentenced to four years' penal servitude, what amount of money should you contemplate, supposing his conduct to have been not of the best, but average good conduct, would accumulate for him in the four years upon the system you have indicated?—It would depend upon how long we kept him in this institution, because I would not give men high gratuities during the time they are in the prisons where they are good and bad alike; but I would pay them highly when they show by good conduct that they deserved to be drafted into these establishments. Any calculation would therefore depend upon the periods for which they were in these establishments.

1525. Assuming a man to be in the better part of the establishment which you have described, and assuming him to have got into it as a man of good conduct, and that the course is pursued with respect to him during the whole of the four years, which you seem to indicate as being desirable, what amount of money would a man of that sort have at the end of the four years?—He would have something near 15 *l.*

1526. Assuming a man to have arrived at the end of the four years with 15 *l.*, and to have had a wife and two or three children when he committed the offence for which he was sentenced to penal servitude, what in your mind would be the effect upon the honest labourers who had not committed an offence, of seeing a man at the end of four years, having been himself maintained by the Government, and his wife and family maintained by the parish, with 15 *l.* in his pocket to go to a colony; what would be the effect upon the minds of other labourers who might have known that man out of prison, they being in the same position of life as to family, and the means of earning which that man held?—The effect would be, that this man has expiated his offence, has shown himself to be a reformed man, and therefore he has earned latterly in the prison a certain sum to help him in that reformation; a more favourable effect I should fancy than would be produced by those who had been discharged without this good conduct, and as is the case from Bermuda, with 35 *l.* or 40 *l.* in their pocket, after committing the gravest possible offences.

1527. We will take the case of a man with a wife and three children, an ordinary unskilled labourer, not having committed an offence; do you think that that man, while maintaining his wife and his family, would be equally able to put by 15 *l.* at the end of four years to carry himself to the colonies?—Not equally; but that man has the blessing of a good character, and can go out without any money to the colonies.

1528. That

1528. That is not always so, is it?—There is scarcely any difficulty with a man with a good character, because the funds of the Colonial Emigration-office will aid such a man to go; there is a payment of 10*s.*, for instance, to Australia.

1529. What do you suppose would be the effect, in a village, of a man coming home from Bermuda with 30 *l.* or 40 *l.* in his pocket (which they have done), and the honest labourers in the same village, who have been struggling to maintain themselves and their families, finding that a man who has been transported for 14 years has got 40 *l.*, while they have not a sixpence?—The worst possible effect; and it is the desire to remedy that which would make me alter the principle, which gives to men of bad character who have committed serious crimes very high rates of payment, both in Bermuda and in Western Australia, and which I would only make the premium for good conduct tested reformation.

1530. We will take a man who has been not of bad conduct in Bermuda, but of good conduct in Bermuda; he shall have been sentenced for a burglary, and served his 14 years; he comes home to his village with an accumulation of 40 *l.* in his pocket, the parish in the interval having kept his wife and children, and there being an honest labourer in the parish who has the same number of children and a wife, but who has not been able to accumulate a farthing; what would be the effect upon the other persons who had not committed crime?—It would have a bad effect, in my opinion.

1531. Then would not the system which you propose equally have a bad effect, only modified in degree?—No.

1532. How do you distinguish between them?—Because I consider that the test which a man would have to go through on my system would prove him a reformed man, which I believe no prison treatment can possibly do.

1533. I am not speaking of whether a man is reformed or not, but I am asking you as to the effect which it will have upon other people who have not committed crime at all, in seeing a man who has been a criminal, though reformed, in a better position than they can hold who have never committed any crime?—That man would have suffered so much penalty before, that I do not fancy the effect would be injurious.

1534. Do you think that the effect upon other people who do not know what he has suffered, but merely see him come out with a sum of money in his pocket, will not be injurious?—I think not, because they all know what he has suffered. I think there are none amongst whom he would go but he would tell what he had suffered during the first portion of his imprisonment.

1535. Do you think that unskilled labourers who are struggling hard for existence, knowing that a man receives rations and clothes and lodging more than they can command for themselves, will have an idea that he has suffered very severely when he comes out at the end with 15 *l.* in his pocket?—I think that any of those labourers would be very sorry to place themselves in his position if they traced the thing through, and saw the penal establishment at work, and what this man goes through before he earns any money.

1536. They are not able to see the penal establishment?—No, but they hear.

1537. They hear that he receives a certain amount of food, which in the average is more than they can get; they know that he has good and warm clothes, and they know that he has a good building to live in; do you think that the effect may not be prejudicial in their minds at seeing this man come home with a sum of money in his pocket larger than they could have obtained for themselves?—No; because I think at the time that they hear of his having warm clothing and rations, they hear that at the commencement of his punishment he undergoes nine months' separate imprisonment in a cell, where the depressing influences, I think, will counterbalance any warm clothing and rations which come afterwards. I consider that the first portion of the punishment should be made so deterring, that there would be no fear of any improper effect being created outside by it.

1538. You think that in the case of Bermuda the 50 *l.* would be injurious?—Especially if it is given with sentences, as I have a return here, of a man just arrived having committed murder, and discharged with 42 *l.* in his pocket. I say such an effect must be very bad in the neighbourhood where that man is discharged.

1539. Have you ever had any personal experience in neighbourhoods where men have so come back?—Yes, I have.

Capt. *W. Crofton.*

26 May 1856.

1540. And you have no doubt found that it has led to an opinion that the man, instead of having been punished, has been very well circumstanced?—Some years ago I recollect bad effects from the system of transportation more than anything else, and from the circumstances under which men have gone to the colonies. I think that has had a great effect upon the people at home, for convicts have written to say, that after arriving they have received their liberty, and are getting on well, and making money; that I have known repeatedly to have a very bad effect at home.

1541. Have you known yourself an instance where a man has come back into a country village with 40*l.* in his pocket, what the effect of that has been?—No.

1542. You can well conceive what it would be?—I can well conceive it without knowing it; it must be most injurious.

1543. If you were told by a person who had had such a case under his knowledge, you would well believe that it might be injurious to the other people in that village?—Most injurious.

1544. Then the fact of a man coming back with 15*l.*, instead of 40*l.*, would be injurious in a less degree at all events?—It would be injurious in a less degree, with the system which is now established in the prisons; the men must have some inducement to conduct themselves properly. The great thing, in my opinion, would be to make that inducement as small as possible in the way of payment, whilst they are in the penal parts of the prisons, and afterwards I would only take the lowest scale that they pay either at Bermuda or in Western Australia, in order not to send them out with too much money in their pockets.

1545. With a choice of difficulties, you think it would be, on the whole, less injurious to give a man that inducement to good conduct in prison than to remit a part of the sentence under the ticket-of-leave system?—Most certainly.

1546. It is a choice of difficulties in any way?—I do not anticipate any difficulties in the arrangement which I have proposed, so that I can hardly term it a choice of difficulties.

1547. Do you think that there might be no injurious effect, in any degree, upon parties who have not committed crime?—I think not, provided the prisoners pass through these establishments direct from a prison.

1548. *Chairman.*] Have you any further information to give, or suggestions to make to the Committee with respect to the subject of their present inquiry?—I have.

1549. Will you be so good as to proceed?—It is with regard to the class of criminals that are sent to the colonies. I had just commenced by saying, that I never inspected a prison without large numbers of the prisoners wishing to be sent to the colonies; and I want to show that, so far from transportation having a deterring effect with regard to them, they treat it as a boon; and if they treat it as a boon, it is a question whether it might not be taken into consideration that it should be really made so, and that we should send our selected men to the only colony which is left to us.

1550. Western Australia?—Western Australia; and I believe, by so doing, we should do justice to the colonists, and at the same time ease ourselves of the very class of men who, although they have not committed the gravest crimes, are the most troublesome class to us, from a want of employment in this country. Such a man would be likely to relapse into crime, perhaps, in this country, though he would, in a new field in a colony, and with plenty of labour, be a reformed man; I believe that we might make even the small opening left us in Western Australia a very important element of reformation, both as regards our prison discipline and the ultimate reformation of the men.

1551. Do you believe that by that means also you could induce the inhabitants of Western Australia to take a larger number?—Not only Western Australia, but there is a field beyond that. Many prisoners who have been sent to Western Australia have already moved on to other parts of Australia. It has been found difficult for Western Australia to absorb beyond a certain number. I believe that from time to time these men would remove to other localities. I do not think that Western Australia can absorb very many at present, but it could of course employ more of this class than it could of any other you sent. Western Australia has many situations now held by convicts; it seems therefore that selected men would be the best to send there; I allude to police constables' appointments,

pointments, and many others, at 4*s.* and 5*s.* a day. It would be important for us to make known in our prisons that well-conducted men would be eligible for these sort of appointments; some have 2*s.* a day, others 3*s.*, others 4*s.* This would be a sufficient stimulus, added to what I have said, to induce good behaviour in the prisons, in my opinion. I have made a little calculation to show how I propose to carry it out. With regard to the Irish convicts, we discharge about 800 annually; roughly, at the present moment (and I have calculated roughly only, because it is impossible to do it otherwise), I could only find about 75 per cent. that would be, in my opinion, fit to enter the establishments of which I have been speaking. I think we may educate and train up more, but at the present moment I would say 75 per cent.; that would give 600 to pass, as it were, through these establishments. Western Australia can absorb; absorb is not the name for it, because it absorbs only at a very heavy expense on the part of the Government; however, Western Australia can find employment for from 600 to 800.

1552. Mr. *Henley.*] Annually?—Annually.

1553. Mr. *Adderley.*] Is that the Government of Western Australia, or the the colony?—The Government of Western Australia.

1554. Not the free settlers?—The colony is the Government; it has all been at the expense of the Government; it is the same thing. Giving England her proportionate share of sending to Western Australia, it would leave us about 200 whom we might annually depend upon to deport (I will not say transport) to Australia, and which I should propose doing, at the same time that others go into these different establishments, selecting men for good conduct, irrespectively of length of sentences, excepting for grave crimes.

1555. *Chairman.*] Would those whom you sent to Australia be altogether selected men?—Selected men, the same as for these establishments; they should have the first choice.

1556. Selected upon the principle you have just mentioned?—Yes, for good conduct. There would then remain 400 well-conducted men who had been tested to be provided for otherwise; 200, I should think it would be fair to assume, would colonise as free men at the termination of their sentences; and 200 there would be no possible difficulty in absorbing in the community at home annually, if the public had an opportunity of seeing their reformation thoroughly tested. We should have no difficulty, I am fully persuaded, in having 500 or 600 absorbed by this test. That still leaves us out of the 800, 200 men whom I shall not class as well-conducted prisoners; that is the 25 per cent. that would never pass through these establishments; men who have committed very grave crimes, and those whose prison character is bad; they must be provided for, and I should propose that a different system altogether should be laid out for them. We have Bermuda and Gibraltar, and I should propose that such men should be placed in those establishments, and in our own penal establishments; that they should be worked there until the end of their sentences, and when discharged, noted to the police of their localities; there need be no delicacy in it. I have done that in Ireland with regard to those who have been discharged, and who have not been thought fit to go to these establishments. It is noted to the police that such men should be watched.

1557. What sort of instructions have been given to the police?—If such a man has been discharged to his locality with every professed intention on his part to go on in the same course of crime again, the police have been informed that he intends so doing. There could be no possible compunction in notifying that to the police.

1558. Is a kind of circular addressed to the police, or how do you give them the information?—A confidential letter is sent to the head of the constabulary.

1559. Do you give the locality to which you suppose the man has gone?—The locality to which I know he has gone, because I pay his fare to that place, and it is notified to the head of the constabulary that such a man has gone there with the professed intention of carrying on his career of crime. In the case of such a man, I have no compunction in marking him; but I should have the greatest in the case of a man who I believed was a reformed character. Of course, in sending these men who have committed grave crimes, and these ill-conducted prisoners, to Bermuda, the system must be altered as to gratuities. We can have no men discharged with 40*l.* or 30*l.*, or else the penal element at once disappears.

Capt. *W. Crofton.*

26 May 1856.

1560. Would you, with regard to this class, have any gratuities?—I would not; a man should have no gratuity unless his conduct showed that he deserved it.

1561. Mr. *Henley.*] The result of that arrangement would be, that all the men who had committed grave offences, or the men who had not committed grave offences, but were unreformed, would be let loose in this country without any means of subsistence, and with no protection, except giving notice to the police?—I think that the men who have been convicted of grave crimes are very few. Last year our proportion was only 33 for transportation; in England, Scotland, and Ireland together I think the number was 330. The grave crimes are very few, and they are not generally committed by the most destitute men.

1562. If I understand you rightly, the proportion of 200 out of 800 is the number which you give as being unreformed, and men who have committed grave crimes?—Unreformed, ill conducted, and men who have committed grave crimes.

1563. Then the result would be, that those unreformed characters, persons who had committed grave crimes, would be let loose at the end of their period of imprisonment, without any money in their pockets, to get on as well as they might in the community?—Yes; they have already been so for years; and, in addition, they have had others mixed with them whom you would now filter, and reform, and send elsewhere, where they can do well. I do not see that the difficulty is increased by discharging unreformed men in this country; they have been already discharged from time to time at the termination of their sentences.

1564. Have no means of alleviating or of improving that state of things occurred to you?—Yes. I believe, as I stated at first, that though I compute 25 per cent. of these men as not now being fit to go into these establishments, that number would, through educational progress and other means, be gradually lessened. What I am going to say is of course mere conjecture, but I do not believe that ultimately, perhaps, 10 would be found, where there are now 30 or 40, who would fail if we educate them properly.

1565. Whatever the number might be when lessened by improved education, have you still found any means by which that number might be provided for other than by sending them loose upon society here?—I believe it to be the best plan to retain them in our own country, because we have the means of watching them and rendering them powerless with a proper system of police. I believe that there is no country like our own for dealing with such men; I think any spot allocated for that purpose would end in a sort of Norfolk Island again; it would be of no possible advantage. I believe that if we cannot manage those characters with our good police system throughout the country, they cannot be managed elsewhere, but I do not anticipate that they would be any trouble to us. I believe the most troublesome class to us and to the police, are those very young men that I speak of, whom I would send to the colonies, and who are reformable and reclaimable; they are the bulk of our criminals, because we have now 450 sentenced to four years' penal servitude, where there are only 33 sentenced to transportation, and if we can deal with that mass, we solve most of our difficulties so far as troubles are concerned at home; and I believe that we can deal with that mass, namely, those with short sentences, in a way that would be satisfactory as to reforming the men, by taking them away from this country, and their evil associates, and placing them where they would be well received, and in circumstances which would tend to their well-doing.

1566. *Chairman.*] What is the system which you contemplate with regard to the treatment of female prisoners towards the end of their sentences?—Female prisoners are a very large number with us in Ireland, I regret to say.

1567. Do you find that a very difficult part of the subject to deal with?—I feel it a difficult part, but I do not think the difficulty is at all insuperable.

1568. Will you state what you propose in that respect?—The great difficulty with them of course was, to obtain employment for them on discharge; because although people will employ men, they are very careful how they will take women into their employment, into their establishments and houses. Therefore, first of all they must earn a character for themselves, and be placed in a position to procure employment; and the only means of doing this at all, that we saw, was in Protestant and Roman-catholic refuges. Of course the great bulk of our female criminals are Roman Catholics; we have now placed several in refuges.

1569. All

1569. All those refuges, I suppose, are entirely supported by voluntary contributions?—They are so supported; but the Government pay for the women at the same rate as they pay at Red Hill for juveniles, which is 5*s.* a week; and it is the business of the patronesses of the institutions (and they are doing so) to train these persons, give them liberty of action, the same as we do with the men, and to procure them situations. I believe it is the only way that they can be worked into the community. The patronesses desire to have corresponding refuges in Western Australia, and are, I hear, trying to get them up now.

1570. How long have these refuges been established with you?— They have been established for some time, but with us the system has only commenced six weeks. There has been a Protestant refuge, to which there has been a grant from the State of 50*l.* a year for the last 15 or 16 years, but there have been no prisoners placed there until recently.

1571. What is your system with regard to the females at the convict establishments as to a ticket of leave?—We give a female a ticket of licence to be in a specified refuge; we arrange with the establishment about her going there, and if she misconducts herself, she comes back to prison. At the refuge there is a farm, where there is dairying and poultry, in addition to other things which they have been taught in the prison; the object is to teach them industrial employment as much as possible. Of course this prepares them for getting some situations outside.

1572. You say there is a ticket of leave; is it one of the express conditions, that if the woman misbehaves herself she shall come back to prison?—Yes.

1573. Have you the form of one of those tickets of leave?—Not with me; but the form as to misconduct at the back of the usual tickets of licence would enable you to do this; the licence ticket only limits the place where the person can be at large to the refuge.

1574. Have you any further information to give us on that point?—I have no further information, excepting that I see that the Governor of Western Australia, the clergymen, and others, complain of the great paucity of females there as being perfectly demoralising to the well-being of the male prisoners who are sent out; they complain that female emigrants do not come; and it does appear to me to be worthy of consideration whether with regard to women thoroughly reformed something could not be done in sending them to refuges in Western Australia, and introducing them there. One of the refuges in Ireland has a correspondence in Western Australia, and it appears desirable to consider whether these women could not be profitably worked off there; because although there are objections (and there has been on the part of the Governor of Western Australia objections), to receive female convicts, preferring emigrants, yet if those female convicts are reformed, or supposed to be reformed, by certain tests before they go, it might remove these objections.

1575. Mr. *Henley.*] What proportion of the female convicts are married women?—A very large number. I can scarcely be accurate enough to give you the proportion of them; but our class is not the same as in England; the majority of them are not prostitutes, as in England.

1576. You say the greater proportion are married?—A large proportion; not the greater proportion.

1577. So far as that went, it would not obviate the difficulty as to women in Western Australia?—Even if we could send 25 per cent. of those annually discharged to Western Australia, it would be the greatest possible boon.

1578. What is the practice in those intermediate establishments which you have been speaking of with reference to persons having access or communication with their families?—They do not have any communication with their families.

1579. That rule is kept up as strictly as in the prison?—Yes. If a special application was made by any member of the family coming, there would be no objection to it, nor is there with the well-conducted men in the prison.

1580. But it is not the system?—It is not the system.

1581. *Chairman.*] Is there any further information which you wish to give us with regard to the system established in Ireland?—I think not.

1582. You are aware that one subject of our inquiry here is as to the special provisions of the Act of the 16 & 17 Vict. c. 99?—I am.

1583. Your attention, I suppose, has been particularly directed to that Act since it came into operation?—Particularly.

Capt. *W. Crofton.*

26 May 1856.

1584. From your observation and experience, are you able to suggest to this Committee anything which you would consider an improvement in the provisions of that Act; anything which it is desirable to alter?—Yes.

1585. Be so kind as to state it?—I should prefer the establishment of the system I have described at the termination of the sentences to a ticket of licence.

1586. Besides that, is there anything which occurs to you as a desirable alteration?—From my reading of this Act, I understand that there is now power to send prisoners under penal servitude sentences to Western Australia; if not, I should suggest an alteration in that respect. But my reading of the 6th section is, that we may now send penal servitude prisoners there, and if that be true, if I am correct in supposing so, there would be no necessity for an alteration in that particular. I see it is stated, "or in any other prison in the United Kingdom, or in any part of Her Majesty's dominions beyond the seas, or in any port or harbour thereof."

1587. These are the words, are they not: "Every person who under this Act shall be sentenced or ordered to be kept in penal servitude, may, during the term of the sentence or order, be confined in any such prison or place of confinement in any part of the United Kingdom, or in any river, port, or harbour of the United Kingdom, in which persons under sentence or order of transportation may now by law be confined, or in any other prison in the United Kingdom, or in any part of Her Majesty's dominions beyond the seas, or in any port or harbour thereof, as one of Her Majesty's Principal Secretaries of State may from time to time direct;" those are the words of which you are speaking?—Yes; and I apprehend from that, that there would be no difficulty in sending penal servitude prisoners to Western Australia; if it is not so, I should suggest an alteration to include those sentences, for the reasons which I have already given.

1588. Have you any other suggestion to make with regard to the Act?—I have no other.

1589. Mr. *M. Milnes.*] Have you any English criminals under your care?—One or two; I think very few.

1590. Do you think, from your experience of the national character in Ireland, that there are reasons why the system you have mentioned, to which you have devoted so much attention, is more applicable to the Irish than to the English character?—I think not.

1591. You do not think that the susceptibility of the Irish would be a ground of distinction?—Not at all. I see the same susceptibility in England, where it has been tried in reformatory institutions; I see the same success attending institutions where it has been tried in England.

1592. What reformatory institutions for adults have we ever had in England of the same sort?—Two or three. There is one now in Westminster; a great many English and Irish criminals have passed through that, and they have done so after they have left our convict establishments.

1593. Are any large number of the convicts teetotallers?—I have never asked them: they are teetotallers while we have them.

1594. Is it your impression that they are so?—I could not say so, for I am not aware. I have never asked the question.

1595. Do you think it would be possible to apply this reformatory system, connected with full employment, to so large a body of persons without giving offence as to the competition with free labour?—I would employ them on the works which the public service requires, such as fortifications, &c. I do not see why it should give offence to free labour.

1596. I do not understand that in these milder reformatory establishments to which you allude you confine yourself to employment on public works?—No. I refer to industrial works besides. The able-bodied would be employed on fortifications, but the industrial works in the prisons might go on in the same way as they do now in prisons.

1597. And you think that so large an amount of industrial employment as you would give under this reformatory system would not come into dangerous competition with free labour?—No, certainly not; we should not give a much larger employment in industrial occupation than now. Work is still carried on in prisons. The principle is the same; it would only be that the men would have greater liberty of action whilst there; we should not much increase the work.

1598. Would

1598. Would you not contemplate some portion of agricultural employment?—I would rather not go to that until the other was exhausted, because I think there is plenty of other work which presses. Agriculture would be very good work afterwards.

1599. Do you not think that for a reformatory discipline the agricultural employment has great advantages over the other?—It decidedly has very great advantages; but I look upon it that there are public works to be performed, fortifications, and so on, and I can see no reason why they should not be as good evidence of reformation as agriculture.

1600. Quarrying, and so on?—The heavier work I would reserve for the more penal establishments, but earthworks, &c., I would employ them in.

1601. Would it be practicable to have this milder reformatory system going on in the same locality with the severer one?—It would be practicable, but I think not desirable.

1602. Would there not be a difficulty then in finding persons to do the severer labour of public works in the same locality with persons under the reformatory system; would it not be difficult to have the harder portion of public work going on at the same time, and in the same place, with the reformatory system?—I do not contemplate any application of these small numbers to these kind of arduous and troublesome works which you speak of, with regard to quarrying or anything of the sort; I should contemplate small earthworks and fortifications of the kind not now taken by prison authorities, and not requiring expensive prison construction and a large establishment. Upon a small work, which would require 50, 100, or 150 men, I should propose that they should be allocated where they were required, in the sort of tents I have spoken of, and the work, I think, could not be too hard for them; it would not be harder than for any other men who contracted to perform the work.

1603. Do you think that public opinion would understand that these persons who were employed under this milder discipline had before been subjected to a harder one, and that therefore there would be no reason for supposing that there was a premium upon vice?—I believe that the public thoroughly understand, that before they come to that part of their treatment, they have undergone a very severe system of discipline: I belive that is generally known. I have not the least fear that it would be any premium to crime.

1604. Would you in any case contemplate placing persons, under any circumstances, in these, what I would call, reformatory establishments, who had not been subjected to a penal discipline?—No. I would have every man subject to a strict penal course of discipline before he is placed in one of these establishments, or I should very much apprehend that it would become a premium to crime.

1605. But you think that if it was distinctly understood that no prisoner was there who had not been subjected to a previous penal discipline, there would be no fear of any misunderstanding on the part of the public?—There would be no fear whatever, in my opinion.

1606. And you have found from your experience, that that is not the case in Ireland at the present moment?—As yet, not at all; there is no feeling of the kind whatever.

1607. Mr. *B. Denison.*] Have you had sufficient experience of the feeling of the public with respect to men who have been let out on tickets of leave?—The experience of course has been limited; I said, "as yet."

1608. How long have you been in the habit of issuing the tickets of leave?—For the last four months.

1609. Is it not impossible for you to form any calculation as to the opinion of the public of the system, as regards these tickets of leave?—It is impossible to give an opinion of much weight; I only stated "as yet."

1610. I think you said that in the course of a short time you would have about 700 men on this system; in two months?—Yes.

1611. Divided into classes of 50 each?—Yes; excepting in three cases, in two of which there will be 85 in each, and in the other 60.

1612. Have you any protection or security for these men not running away, excepting the moral control which you have over them; there are two or three officers, you said?—There is nothing but the moral control, and the fact that these men are nearly at the expiration of their sentences, with good characters, self-respect restored, and certain earnings accumulating for them.

Capt. *W. Crofton.*

26 May 1856.

1613. How long have they on the average been under penal servitude before you let them out upon this system?—It would depend on the term which they had to serve; a 10-years' transportation man would be taken at the term of four years; a seven-years'-transportation man would be taken at three years.

1614. Even this system of locating the prisoners in different parts of Ireland is only an experiment?—It is only an experiment.

1615. And the experiment is, in getting these iron buildings, and placing them in different parts of Ireland, with two or three officers to each?—Yes, where the public service requires them.

1616. As yet you have found no difficulty in that respect?—None whatever; I explained that the men would be filtered, as it were, into these iron buildings, from where they are now placed at the forts, which will be intermediate between the prisons and these buildings again.

1617. Do you consider that their being located in these houses is the most mild system of dealing with them?—Not only mild, but efficient for what we have in hand, which is, to find out the character of every man, by individualising, in order to endeavour to reform him.

1618. It is the least penal towards them?—It is the least penal towards them also. But I should not do it from that motive so much as from wishing to ascertain the characters of the men.

1619. Are they usually employed in agricultural pursuits in these smaller establishments, so far as you have experience?—We have not employed them in agricultural pursuits at all; we shall do so in about a month or six weeks, because we are laying out a farm at the juvenile prison which we are about building. Then we shall begin with the agricultural pursuits with them, but we have had no experience of it; all that we have tried as yet is on fortifications at the mouth of Cork Harbour, and the industrial establishment which I have spoken of.

1620. To what particular employment do you intend to appropriate them in these smaller establishments?—They will be wherever the public service requires the labour. In the first instance it will be in erecting the juvenile prison for ourselves, and after that, when the War Department requires certain small fortifications to be erected, which they would otherwise do by contract, they will send for 100 or 150 or 50 convicts, and we can have one or two moveable tents placed for them where the work is required.

1621. Then, so far, you intend to appropriate them to the use of the Government?—Certainly, and only the Government at present.

1622. You would thereby avoid the possibility of their coming in contact with the public?—Yes; it would be only for the purposes of the public service.

1623. Assuming that there are no Government works to which to appropriate them, and for the moment applying your attention to England, if you are competent to give an opinion, how do you think that it would work where labour is more plentiful in some instances than employment?—There appear to me to be nearly the same facilities in England for the application of a small amount of labour in that way as there are in Ireland. It would apply to the contracts taken by the War Department in England for certain small batteries and fortifications to be erected in one place and another all round the country; and I believe that iron buildings could be erected to accommodate men in England as well as in Ireland. I allude to works which do not now come under the convict department at all.

1624. Are you of opinion that the employment of these men should not interfere with the free labour of the population?—I do not believe that t need do so.

1625. My question was, should it be a condition that it ought not to do so?—I would not make a condition of the kind.

1626. If it did interfere with the free labour of the country, would it not be an inconvenience to the free labour of the country?—I think not; not a greater inconvenience than at present, because one must bear in mind that at the period at which I place men in these establishments, in former days they would have been discharged, either at home or in the colonies, or probably would have been sent out on tickets of leave to compete with free labour; and our hope should be in their competing with free labour; because if a man has not employment,

ment, where is his reformation? Therefore he ought to be competing with free labour if he intends to reform.

1627. Mr. *Adderley.*] Do you consider that such institutions as you have been giving us an account of, viz., the intermediate establishments, would be better in the hands of private individuals than in the hands of Government?—I have the highest opinion of voluntary efforts, but I think they would still have so much to do in taking men from these establishments, that I believe the Government may well carry it to the termination which I have described, and still leave plenty for voluntary associations to do. I believe that societies of patronage must help us from the prisons; and that they will do so in Ireland, and that shortly, I am convinced.

1628. Is there not some fear that so long as such institutions are conducted by Government, they must retain a penal character?—They will do so slightly; but they need do so only slightly, in my opinion.

1629. As you have described them, I should be afraid that the public would see little difference between them and the public works' stage of punishment?—I think people will see a great deal of difference, because these men would be let out; they would have liberty of action, which they cannot possibly have in a public works' prison; they are watched by officers there, and they cannot possibly do wrong without they are very bad indeed.

1630. Do you consider it possible, in the eyes of the public at large, to distinguish this treatment altogether from a penal treatment?—I think it perfectly possible, and highly probable; and as far as my experience in this short time has been concerned with regard to our own prisoners, I feel that the prejudices against employing them are rapidly giving way, and that many persons now come and offer to employ men whom we can recommend, and look at the registers: I am of opinion that feeling will increase.

1631. Have you any satisfactory proof as yet that the public will be more willing to employ men from such institutions than from prisons?—On the small scale which I can lay before you, I have most decidedly, because I do not know any person who would come to a prison and take a man out; for the public do not believe the test of a man's character in prison to be sufficient to warrant his being employed.

1632. Have you applications?—Constant applications; because this establishment is open to the public in a great measure; many attend the lectures; inspectors of the National Board lecture on certain evenings, and the public come in, and see exactly the system that is pursued. There is no difficulty; in fact, several persons have come and offered men employment at the institution.

1633. Do persons coming to such institutions to offer employment ask for any certificate of character?—They look at the register.

1634. Is there any individual or officer whose function it is to give under his own hand such certificates of character?—Yes: it is the registrar's business to do so; it is the business of every officer connected with the establishment to be an agent outside; and when he hears of a situation, to mention it to those men, and try and get them employment.

1635. Is there any combination whatever of private assistance in such institutions?—There is none whatever.

1636. Neither in the way of contribution, nor in the way of visiting?—Neither in the way of contribution, nor in the way of visiting; but I hope that soon there will be in visiting.

1637. Have you ever considered whether it might be an addition to your plan to get private sureties for good conduct in the case of men gaining employment from such institutions?—I have considered it, and of course it would be a great advantage.

1638. You have not adopted any such plan at present?—No.

1639. Have you any intention of doing so?—Not at present; but our system is in its infancy. The principle appears to me to be excessively sound.

1640. Do you consider that such institutions will give facilities to men emigrating from them to other parts of the world?—Decidedly.

1641. Not only to the colonies, but to any foreign countries?—To any foreign countries that they may choose to go to; and from the system pursued in our institutions, the men will really understand what they are about when they go there.

1642-3. Do you consider that the emigration of discharged prisoners, through

Capt. *W. Crofton.*

26 May 1856.

the process of such an institution, would get over some of the difficulties in the way of transportation?—I do, most decidedly.

1644. Do you not think that it would do even more so if such institutions were in the hands of private individuals?—I think it might.

1645. Mr. *J. Wynne.*] I think you stated that you were conversant with the English system carried on in the convict prisons before your appointment to Ireland?—I did not speak particularly of the convict prisons, but of the prisons generally, and the reformatories in England. I know sufficiently of the convict establishments to answer any question respecting them.

1646. Sufficiently to contrast the working in the two countries?—I am perfectly conversant with the convict system pursued in England.

1647. Do you find any greater difficulty in carrying out the penal part of the sentence in Ireland, especially the separate portion of the sentence, on account of the greater tendency to scrofulous complaints in Ireland than in England?—That was one great difficulty at the commencement; but in consequence of very careful watching, and leaving the power of giving exercise to Dr. Rind, who thoroughly understands the subject, we were enabled to treat scrofulous patients, with very few exceptions indeed, in the same way as others.

1648. At first did you find a great many prisoners break down in their health before the expiration of their period of separate confinement?—A great many did so before our Board was formed, but I have not found so since, by giving an unlimited power of exercise.

1649. Are you aware that a number have been annually discharged, absolutely on account of their breaking down in health?—A number have been so discharged, not from that cause, not from having broken down from separate imprisonment.

1650. Not in the convict prisons?—Not in the convict prisons in Ireland; I am not aware of any case of a prisoner's health having broken down, and of the prisoner's having been discharged in consequence.

1651. Do you know that some years ago, in consequence of the crowded state of the convict prisons, a large number were discharged from being invalided?—Yes; the effects of the famine, &c., had caused an accumulation of this kind of prisoners who were scrofulous, and it was formerly the case that prisoners were subjected to 12 months' and 15 and 18 months' separate imprisonment; but the maximum term is now nine months, and if a man wants one or two hours' exercise, and the medical officer considers it proper that he should have it, he has it; that is the regular system which now goes throughout the whole establishment.

1652. They were then neither fit for the hard description of labour on the public works nor the confinement, as then administered?—No.

1653. Do you consider that a large number of those so discharged, though unfit for imprisonment in confinement or for the harder labour at public works, would be fit for agricultural employment, which would be lighter and also be carried on in the open air?—There is no doubt of that. In fact, we have proved it, because we have made an invalid depôt in a healthy place, and these men, who would have been quite unfit for the heavy works, are now doing well, and their health is very much better.

1654. Is there any establishment in Ireland similar to the one at Dartmoor, where agricultural employment is carried on to a large extent?—There is not; we wished that it should be adopted with regard to Philipstown; but there has been a great difficulty in procuring land, the prices asked for land have been so exorbitant. It has, however, been the object to have an invalid prison there, and we hope yet to carry out agricultural employment.

1655. Then you would recommend such an establishment, if it could be carried out?—Certainly I should.

1656. Would the inclosing it with a sufficient wall for safety add considerably to the expense?—Yes; and I do not think it would be necessary so to inclose it.

1657. If an island could be obtained off the coast, fitted for agricultural employment, do you think that it would be desirable, with the assistance of such houses as you have recommended?—No; I think the more you have the prisoners in view the better. I do not like islands for prisoners. The more you see of them, either in their penal state, or in their reformed state, the better.

1658. The

1658. The only reason for suggesting an island was the expense of inclosure, but you think that the inclosure might be obviated?—I do not think an inclosure would be required if the prison officers do their duty.

1659. Do you think such an establishment could be made self-supporting?—Whilst the prisoners are in a penal state, decidedly not. In the state which I have described, the intermediate state, I have the strongest hopes that it will be nearly so; as far as able-bodied men are concerned, quite so, because we shall have less expense of supervision and less expense of prison construction.

1660. You have stated that a good many of the prisoners have broken down in health in Mountjoy Prison; are you satisfied with the ventilation of that prison at present?—The medical officer is quite satisfied with it. But the reason which I gave for the people breaking down in health was, that they were formerly there for a considerable period, sometimes 18 months, and so on. I do not find it the case now.

1661. Do you think that it is quite unconnected with the ventilation of the prison?—Yes; nothing of the sort occurs now, nor has done so since the formation of our Board.

1662. Whatever may be the difficulties as to getting rid of males, you would agree that they are much greater with regard to females?—The difficulty is greater, but not insuperable, in my opinion. I have the greatest hopes of success.

1663. Do you think, from the fact of the Irish female convicts not being so universally of the prostitute class, as in England, that the facility in getting rid of them would be greater?—I think it would be greater, and I have the greatest hopes of the reformation of large numbers of them.

1664. Mr. *S. Fitzgerald.*] In reference to what the effect may be of criminals being discharged with a considerable sum of money in their possession, a question has been put to you by the right honourable gentleman the Member for Oxfordshire, as to what, in your opinion, would be the effect upon the honest part of the population of seeing that a criminal at the end of his sentence comes out of prison in possession of a sum of money such as they never could hope to obtain; and you say that you do not think that upon the honest part of the population the effect would be injurious?—I am speaking with reference only to one portion, with reference to men from Bermuda, and with large earnings, such as 40*l.*; that is open, decidedly, to very serious objection.

1665. But with regard to the smaller amounts which you contemplate, you think it would not be injurious?—I think it would not be injurious under the circumstances I have mentioned.

1666. What do you think will be the effect upon the criminal population, those already engaged in the pursuit of crime, if they see men come out at the end of their sentences possessing even such a sum of money as you contemplate?—I think that those criminals know pretty well the ordeal that these men have to go through first, and therefore I should not apprehend any ill effects with regard to them; they know the ordeal, and that there must be good conduct before the men can even earn the money.

1667. But we know that every-day crimes are committed, even for the temptation of a few shillings, by those who are well aware of the penalty which they run the risk of?—Yes.

1668. Do not you think that persons who now commit crime, well knowing the risk which they run, for the sake of a few shillings, will not consider the sentence a very deterring one when they see that those who have undergone it come out of prison in the possession of a very considerable sum of money?—I think not, for this reason, that when they come out they say, "I was obliged to undergo a penal sentence before I could ever hope to get this money; and if I had not been well conducted, I should have come out without any money at all, after a long penal sentence." Therefore I do not think the effect would be that which is suggested in the question.

1669. Does not your experience lead you to the knowledge of this fact, that among the criminal population there is a very general belief that so long as they conduct themselves well in prison, and conform to prison rules, and so forth, they obtain a character which will enable them to procure those advantages?—Decidedly; that is why I would make a difference between men discharged from prison absolutely with large sums of money in their hands and others who go through the test, which I maintain is a test as to whether they are well conducted or not.

Capt. *W. Crofton.*

26 May 1856.

1670. Should you object to paying over the whole amount of the earnings of the prisoner to the credit of the Government who maintains him?—I prefer the other course, because it gives a man a chance. I am only speaking of men whom we assume to be reformed, as having passed through certain tests.

1671. You are speaking of 75 per cent. of your prisoners?—Yes. I say that it would be the means of giving them money to emigrate, and to get into a field where they could carry out their intentions of reformation; that is why I think it so desirable that they should have it; and I perfectly believe, that the more they understand about colonies, and the more the lectures in these institutions impart to them information as to which of the colonies they should go to, and what they should do there, the greater will be the desire of emigration: that is my inducement principally to give them their earnings.

1672. The inducement, in your view, must be a pecuniary one?—It must be a pecuniary one, because that will alone aid them to get to the colonies; that will be better than any other system of the Government taking a more prominent part in sending them to the colonies. A man upon my plan emigrates under a system which gives him the produce of his industry; he is a free agent, can take his own passage, or go where he likes.

1673. And you do not think that the prospect of regaining a character and obtaining employment here would be a sufficient inducement; but you think that it is necessary to add to that a pecuniary motive, and the ability, by the man's own conduct, to procure the pecuniary means of emigrating?—I am afraid the stimulus without it would be insufficient.

The Right Honourable Earl *Grey*, attending by permission of the House of Lords; Examined.

The Right Hon. Earl *Grey.*

1674. *Chairman.*] I BELIEVE your Lordship is acquainted with the subject of the inquiry in which this Committee are now engaged; we have had referred to us the provisions and the operation of the Act of 16 & 17 Vict., intituled, "An Act to substitute, in certain cases, other Punishment in lieu of Transportation"?—Yes.

1675. Did your Lordship fill the office of Secretary of State for the Colonies from July 1846 to the beginning of 1852?—Yes.

1676. What colonies were open for the reception of convicts from this country when you came into office in July 1846?—At that time, properly speaking, New South Wales was the only colony really open, because Mr. Gladstone had just come to a decision to suspend for a certain time the transportation to Van Diemen's Land; Bermuda and Gibraltar I do not consider as colonies receiving transported convicts, as they have eventually to be removed from those places.

1677. Subsequently, transportation to Van Diemen's Land was resumed?—It was.

1678. Were important changes made on your Lordship's accession to office, in the year 1846, in the system of carrying out sentences of transportation?—There was a very important change.

1679. Will you have the goodness to state to the Committee what that was?—The main principle of that change was to adopt as a rule the infliction of the strictly penal part of the sentence in this country, instead of in the colonies. It was considered that transportation virtually resolved itself into penal labour, under the control of the Crown, and subsequently passing a certain period at large, but under qualified restraint, in some colony. It appeared to us at that time that the great advantage of the colonies was for receiving convicts at the end of the more strictly penal part of the sentence; that the penal part of the sentence would be much better inflicted at home, because it would be more directly under the superintendence of the Government, and the punishment could be carried on at a smaller expense; but we thought that the colonies possessed advantages for receiving convicts after they were discharged from penal labour, which could not be found in this country. The system was therefore adopted of making convicts pass through a regular scale of punishment, which was to begin by a certain period, according to the sentence, of separate imprisonment, followed by associated labour on public works at home, and then tickets of leave in the colonies, and subsequently conditional pardons in the colonies.

1680. Was

1680. Was the ticket of leave introduced then for the first time?—No; it had been in operation many years in the penal colonies.

1681. What was the effect of this system, so long as your Lordship had an opportunity of observing it?—As far as I had an opportunity of observing it, it seemed to me to work remarkably well; there was no doubt that the hope of being discharged with a ticket of leave at the expiration of a certain period of their sentence from this country was a most powerful inducement with convicts to good conduct in the penal establishments at home; the hope of that relaxation of their punishment was, in fact, the main spring of the whole system of penal labour here, and it was the means by which the great improvement from the old state of the hulks had been mainly effected. It is also certain that convicts who had passed through a certain period of separate imprisonment, followed by associated labour on a good system of public works at home, were found, when they went to the colonies, most valuable labourers, and a very large proportion of them turned out, I believe, quite as good emigrants as the majority of those who go out voluntarily. I have seen many letters from employers in the colonies, giving a decided preference to the men who went out under these regulations over those sent out as free emigrants.

1682. I believe during the period we have spoken of, difficulties arose in the colonies themselves, which created an obstacle to the continuance of the practice of transportation?—Yes.

1683. Without going into detail here, I believe I am right in stating that the facts connected with that subject are detailed in your Lordship's work, intituled, "The Colonial Policy of Lord John Russell's Administration"?—They are.

1684. Do you remember the passing of the Act to which our attention is now particularly directed?—I remember the passing of that Act; I was present when the second reading was discussed in the House of Lords, but I had left London when it went through its farther stages.

1685. Did your Lordship take part in the discussion?—Yes, on the second reading in the House of Lords.

1686. One subject of our inquiry here, is into the provisions of this Act; are there any of them to which you have turned your attention with the view of suggesting any improvement in the Act?—There is one part of that Act to which I expressed a very strong objection at the time of the second reading in the House of Lords, and as to which, experience has confirmed the objection which I then expressed,—I mean that part of it which reduces the length of sentences of penal servitude as compared to the former sentences of transportation.

1687. That is the 4th section of the Act, I believe?—The 4th section of the Act. I stated at the time, and I still think that the abolition of the sentence of transportation was no reason at all for abridging the sentences, because under the former system it never was intended that men should remain in penal labour the whole time for which they were sentenced. By law, they might remain in penal labour either at home or in the colonies for that whole period. But, as I have said, it was the main instrument of an improved system of discipline, that the Crown should have the power of retaining convicts in custody for a much longer period than they were usually actually to be kept so. The Act made a mistake, as I think, in reducing the periods for which the Crown had the control of convicts to the time which practically they generally passed in custody, and the effect of this has been to deprive Government of the means which they before possessed of giving a stimulus to good conduct and to industry, by the prospect of an early relaxation of the sentence. I may say that as punishment formerly consisted, first, of penal labour, and ultimately of banishment, when you took away the banishment, instead of being a reason for diminishing the length of the sentence, it was rather a reason for increasing it: because, though it is very true that a large number of convicts in the penal establishments are very anxious to be sent to the colonies, that anxiety, so far as I believe, arises entirely from their great wish to be relieved from the severe punishment which they are undergoing in these establishments; but the banishment in itself is by no means an inconsiderable part of the punishment, which is proved by the fact that it was of every-day experience that the most pressing applications were made from the colonies for converting the conditional pardons which were usually given, into free pardons, which would enable persons to come home.

The Right Hon. Earl *Grey*.

26 May 1856.

1688. Does it appear to your Lordship that the graduation of the scale of sentences, as regards the term of penal servitude, is capable of improvement?—I think that a very simple improvement might be made in the Act, and I am convinced a very great one, by merely declaring that the sentences should be of the same length as they formerly were for transportation; and that the Crown should have the power, during the period of those sentences, either of retaining the convicts in penal establishments at home, or in those places out of the country where there are penal establishments, or else, if it thought fit, of discharging them with letters of licence or tickets of leave, either at home or abroad. If that regulation were adopted, it is clear that the Crown might give tickets of leave to as many convicts as room could be found for in the colonies, at an earlier period than they would get tickets of leave at home; and they would be very glad to accept it upon those conditions. But the main object of that change would be to provide for what I think a very serious danger of the present system, the ruin of the discipline and of the efficiency of our present penal establishments at home. Experience, both in this country and in every foreign country, proves that it is impossible to maintain the discipline of a penal establishment, and enforce industry on the part of convicts, by the mere fear of punishment. The hulks formerly in this country, the galleys in France, the establishments at Norfolk Island, Moreton Bay, and Port Macquarry, and all the establishments that have been tried upon this principle, have uniformly failed; convicts have become uniformly reckless, hardened, and impossible to be managed; most frightful murders of their keepers have occurred; and criminals, when they have been ultimately taken from establishments of this kind, have been found much worse than when they went into them. I believe, according to the principles of human nature, that must always be the case. Captain Maconochie recommended, on a consideration of this fact, that the punishment of convicts should always depend exclusively upon their own conduct. He proposed an elaborate system of determining the length of the sentences by certain marks which were to be earned, so that the convicts might know that every day's good conduct or bad conduct made a difference in the period of their punishment. That system was tried at Norfolk Island; it failed, and I think might have been expected to fail, because the principle, although substantially a good one, was perhaps carried too far, and not accompanied with the necessary severity of discipline. But the system adopted in 1847 and 1848 was a modification of that system. It still preserved the principle of making the length of the punishment depend mainly upon the conduct of the men, but with that there was a certain severity of punishment which could not under any circumstances be escaped. Now it was found that with the hope of being early discharged from prison, convicts did perform their tasks with singular industry and with good conduct; I do not know whether it has been brought before the attention of this Committee, but I remember when I was at Dartmoor, sawyer convicts were pointed out to me who were actually doing a greater amount of labour than free labourers employed at the same place, being entirely stimulated to this exertion by the hopes of being speedily discharged. Under the law as it now stands, the conduct of the convict has comparatively little influence upon the length of his punishment, and the consequence is, that you have not the same powerful motive brought to bear upon his mind is a stimulus to industry. And I find in the Report which has just been laid before Parliament of the Commissioners of Management of Convict Prisons for the last year, that the directors of convict prisons mention the fact that this change is already beginning to produce a very injurious effect upon the conduct of the men, though of course hitherto that has been to a very slight extent compared to what it will ultimately be, because the greater proportion of the convicts in these establishments still consists of persons who are sentenced under the old law, over whom therefore the Crown possesses complete power, and who may be expected to behave well. When the majority shall come to consist of persons sentenced under the Act of 1853, I believe that the managers of those prisons will be totally deprived of the necessary means of keeping up order and enforcing industry, and that the prisons may be expected to go back very much to the condition of the hulks of former days.

1689. Than which, I believe, nothing could very well be worse?—Nothing could possibly be worse.

1690. Is there any other section of the Act to which your Lordship thinks our attention might be drawn with the view of suggesting any alteration?—Perhaps it

The Right Hon. Earl *Grey*.

26 May 1856.

it applies principally to this section; but I think that if you were to revert to the old length of sentences, it would be highly desirable that the Crown should be empowered, as a relaxation, to send, during the continuance of the sentence, any convict to a colony where there might be the means of receiving him as the holder of a ticket of leave. In that manner you would make sending to the colony, what it practically has been ever since 1847, a relaxation, as far as it goes, of the original sentence. I think it would be very desirable that if sentences were again to be passed of their former length, the judges should be made clearly to understand that those sentences were never intended to take effect except in cases of gross misconduct, after sentence, on the part of the convict; that they were the maximum of punishment which could be inflicted under the sentence, and not the punishment which should usually be inflicted, because I am afraid the judges have not been very accurately informed frequently of the manner in which the sentences which they have inflicted have been carried into effect, and from not knowing that, they have made some mistakes in the sentences they have passed, and in the remarks which they have addressed to convicts at the time of sentencing them.

1691. Does any suggestion of an alteration occur to your Lordship with regard to the section about tickets of leave, the ninth section? One of the witnesses has suggested that it might be advisable to alter the terms of the licence prescribed by this section, so as to make it a licence going beyond the United Kingdom and the Channel Islands. The words in the ninth section limit it to the United Kingdom and the Channel Islands. It has been suggested that it might be advantageous to have a power, at all events, to grant a licence for a larger range than that. I do not know whether your attention has been given to that point?—My attention has not been previously directed to the particular wording of the section; but I was quite aware that the licences to be at large were confined to the United Kingdom and the Channel Islands. I think it would be a very great improvement that that section should be altered, so that this licence might apply either to the United Kingdom, the Channel Islands, or to any part of Her Majesty's dominions to which the holders of these licences might be conveniently sent. I believe there are some places in addition to Western Australia to which convicts might be sent; and I would observe, that the effect of prolonging the periods of sentence, combined with an alteration of this clause, would have the advantage of enabling the Government to send to Western Australia as many convicts as it should be found capable of receiving. Since I have been in this room, I have had an opportunity of glancing over some of the evidence which has been previously taken by the Committee, and I observe that there were only 400 convicts sentenced to transportation in the year 1854, and that, deducting from that number those who were unfit, from physical or other reasons, to be sent to Western Australia, it did not leave as many as might be advantageously received there. That being the case, it seems very desirable that the law should be so modified that the Crown might always have the power of sending to Western Australia, or to other Colonies, as many convicts who had gone through the penal part of their sentence as could be conveniently sent there, since I believe that, as a general rule, the prospects of convicts ultimately reforming are very much greater in a colony than they ever can be at home.

1692. Your Lordship was understood to state just now that the law was imperative as to the time for which a convict was to be imprisoned; was that the meaning which your Lordship intended to convey?—I must have expressed myself inaccurately if I was so understood; I am quite aware that the law does not limit the constitutional power of the Crown to grant a pardon at any period; but what I meant was this, that when the ordinary sentence of seven years' transportation is reduced to four years, that period is so short, that the Crown has not an adequate means of holding out to the convict a relaxation of his sentence as a motive to good conduct, because if that sentence is to be reduced to one-half by good conduct, which was somewhere about the former rule, two years' penal servitude would obviously be a very inadequate punishment for many of the offences for which sentences of seven years' transportation were formerly passed; so that, practically, the law does deprive the Crown of that power which it possessed under the old state of the law.

1693. An opinion has been expressed here by more than one witness, that it would be desirable to make a great effort to resume the practice of transportation

The Right Hon. Earl *Grey*.

26 May 1856.

upon the scale on which it formerly existed. Is your Lordship of opinion that that would be practicable?—I doubt whether it would be practicable at present. My belief is, that if the system of penal discipline is properly managed in this country, and if those who have gone through that system are sent with proper advantages to the colonies, the present prejudice against receiving those men will, in many of the colonies, speedily abate; that the great value of their labour will be recognised, and that the means of receiving them will, therefore, be increased. I believe, also, that even in Western Australia, which is at present the only colony to which they can be sent, the means of receiving convicts may be made by a proper policy gradually to increase; because experience has proved that in the case both of Van Diemen's Land and of New South Wales their facilities for receiving convicts with advantage continued to increase as the settlements became larger and more wealthy, and as there were a greater number of free settlers capable of receiving them. When Lord Bathurst first began the system of encouraging settlers to take convicts into their service, the number that could be employed in New South Wales was very small; subsequently it became very great indeed, and at the time when the system of assignment was somewhat precipitately abolished, the demand for the services of convicts as assigned servants in New South Wales was infinitely beyond what the Government could supply, although transportation was at that time carried on upon a very large scale.

1694. That system of assignment, though attended with some disadvantages in your opinion, was attended with considerable advantages?—I think it was attended with considerable advantages, and with some great disadvantages. I have never doubted that it was proper to abolish it, but I think that the abolition was hastily accomplished, and without those precautions with which it should have been accompanied.

1695. Would it be practicable, in your judgment, to establish a new penal colony?—I have no doubt it would be practicable, if the country was prepared, to incur the very great expense of doing so. But though it might be practicable, I am very strongly persuaded that it would be highly inexpedient.

1696. Will you favour us shortly with the grounds upon which you arrive at that conclusion?—The grounds upon which I arrive at that conclusion are these: As I have said, I do not think the colonies by any means a good place for the strictly penal part of the sentence passed upon convicts. All experience is against them in that respect. You have much greater difficulty in getting trustworthy officers to watch over the convicts at a distance than at home. Abuses may go on for very long periods in those situations which you cannot discover. Therefore, so far as the mere strictly penal part of the sentence is concerned, my belief is, that convicts cannot be too closely under the immediate superintendence of the Government; and they are as completely separated from the rest of the population at Pentonville and at Portland as they could be at Norfolk Island. There is no communication whatever between the convicts in these establishments and the free population. But it is when they come out of these establishments, when they are to be once more their own masters, that the colonies possess so great a superiority to this country for receiving convicts. That superiority, however, entirely depends upon the demand for labour which exists in the colonies, and the facility of finding them employment under free masters. Now in an absolutely new colony no such means whatever would exist. If they are to be employed, it must be entirely by the Government. There is also no free society to neutralise the effects of the association of convicts: the difficulty and expense, therefore, of employing these men, and the moral disadvantages, would be very great indeed. On the other hand, in an existing colony (take Western Australia, for instance) there is no doubt that the demand for the labour of discharged convicts can, in a territory of that kind, be increased precisely in proportion to the amount of expenditure which the Government thinks fit to incur, and that expenditure would be infinitely less if you were to work upon the foundation of the existing establishment in Western Australia than if you were to found any new colony. If a settlement was to be formed, for instance, in the northern part of the continent of Australia, you would have everything to do. All the enormous expense of first landing men on a desolate shore would have to be incurred, and, after all, no employment would exist for convicts, except such as would be afforded either by the Government or by the settlers who might be tempted to go out. Now in Western Australia, if it is thought fit to incur the expense of carrying a road or a railroad down to King George's

George's Sound, where there is an excellent harbour, and in a very good situation for communicating with this country, if you by other public works extend the amount of territory available as a settlement, and offer advantages to settlers going out, no doubt you can extend very greatly the demand for convict labour; and you would do this much more readily than you could hope to do it in any new settlement. In the same manner, at the Falkland Islands and other places you might, by incurring a certain expenditure, afford employment for convicts; and all these places would present much greater advantages than any place that you could find in a country where there is no establishment already formed.

1697. The only other question with which I have to trouble your Lordship is, whether there is any further information or suggestion which you think useful to the Committee with reference to the subject of this inquiry, with which you would favour us?—The only further suggestion which I have to make is, that I think it is very desirable indeed to extend as far as possible the means of sending convicts abroad, and that with that view it would be well worth the while of the Government to make inquiry as to the possibility of opening one or more other existing colonies for the reception of convicts. There is one place where I certainly think a moderate number might be sent, I mean the Falkland Islands. It is well known that the population of those islands is at present exceedingly small; the establishment is so small, that it is scarcely worth while keeping it up on the present scale unless it is to be extended. But the Falkland Islands are most favourably situated for a place for all ships engaged in the trade, either with Australia or with any part of the western coast of South America, to call in their way home. The ships by calling there for refreshments, or for any repairs of which they may stand in need, save, according to the information given to me by a captain in the navy, at least from 10 days to a fortnight, as compared to the loss of time by going to Rio, which is now the only other harbour practically available either for repairs or for refreshment to ships coming home upon that long voyage. It is well known that the passage round Cape Horn is a very stormy one; ships unfortunately incur a great deal of damage, and it would be of great value to our commerce that there should be a station where repairs could be executed. During the time I was in office I had it seriously in contemplation to propose a dry dock in the Falkland Islands, where there is a most excellent harbour, and I believe a certain number of convicts with tickets of leave might be usefully employed in forming an establishment of that kind. Settlers would be attracted by the trade which would spring up, if this place were gradually to form a port of call on their return voyage for the large number of vessels now engaged in the trade with Australia, and the formation of such an establishment would be a great advantage to our commerce generally.

1698. Is there any other place with regard to which you think a similar suggestion might be made?—There is no other place which I should like to name, because the colonists are so jealous upon this subject: from the discussions of late years, it is so necessary to be cautious not to excite any apprehension among them, that I think it is much better not publicly to name any particular place. If inquiries were cautiously set on foot by the Government, and an offer was made to send a very limited number of persons to some particular places, in the first instance, as an experiment, to some of the colonies where the want of labour is the greatest, I should not despair that an opening might in that manner be found for some of our convicts, and when an opening was once made, it would have a tendency gradually to extend itself.

1699. Sir *J. Pakington.*] Your Lordship has stated that at the period when you became Secretary of State, in 1846, the system of transportation to Van Diemen's Land had been suspended by Mr. Gladstone?—Perhaps, more accurately speaking, the orders for suspending it had been given. I do not think that they had been actually carried into effect; but the decision to suspend it had been come to and declared.

1700. How soon afterwards was transportation to Van Diemen's Land resumed?—I have not the returns before me at this moment, but I think they would show that a small number were sent to Van Diemen's Land at no very great distance of time afterwards. I forget exactly in what year it was.

1701. Excepting that interval which arose from particular causes, I apprehend the system has been, from 1841 down to the termination of transportation, to send all transported convicts, even those for seven years, to the colonies?—Not

The Right Hon. Earl *Grey*.

26 May 1856.

quite uniformily; a certain number were still sent to the hulks at home, and also to Bermuda and Gibraltar, and brought home at the end of their sentence, until 1847 and 1848; the rule was intended to be adopted in 1847 and 1848, that every convict, without exception, sentenced to transportation, who was not physically unfit for it, should ultimately be sent out with a ticket of leave; but, as you are aware, the system was not sufficiently long in operation to allow that to tell. Transportation virtually ceased before many of the convicts who were sentenced after that period became eligible for tickets of leave.

1702. During the latter years of your Lordship's administration of the Colonial Department, were any seven years' convicts detained in England, excepting those who were considered physically unfit to go abroad?—Under the rules established in 1847 and 1848, no seven years' convicts sentenced after that time, or at least a very small number of seven years' convicts sentenced after that time, would have been eligible for tickets of leave before I went out of office, or, in fact, even before the system was altered in 1852 and 1853.

1703. If I remember rightly, it was shortly after your Lordship assumed the office of Secretary of State that that system was arranged between yourself and Sir George Grey, as Secretary of State for the Home Department, which was acted upon, as to the termination of transportation; I mean that system under which the severer part of the punishment was undergone at home, and the transportation portion was only carried into effect with tickets of leave?—Yes.

1704. How soon after your Lordship took office did that system actually commence?—I am afraid I cannot speak to that positively from recollection.

1705. I believe it was shortly?—It was at a very early period. I cannot exactly remember when it took effect, but it began at a very early period. At the same time the system was modified in its progress, because at first the plan was to send convicts abroad after they had passed the severer part of their sentence at home, as what were at that time called exiles, subject to no regulations or restraint whatever. Experience proved that the exiles did not behave so well upon the whole as men sent out with tickets of leave, and that the change was too sudden from the strict control to which they had been subject in penal establishments to being entirely their own masters in the colonies. The exiles were induced to stay about the towns, and to get habits of drinking. Resumed habits of drinking, of course, led again to offences; and it was discovered to be much better that they should be sent out with tickets of leave, by which the Government was enabled to send them at once to the more remote parts of the country, where they could obtain employment under the flock masters in a manner which did not expose them to the same temptations to which they would have been liable at Sydney or Melbourne.

1706. It was found, practically, that during the earlier periods of liberty some check was required?—It was found much better that some such check should be imposed.

1707. Is your Lordship of opinion that that principle would hold equally good whether the convict is released in a colony or in the mother country?—I was inclined to think so, and I believe it was partly upon a suggestion which I threw out on the second reading of this Bill in the House of Lords that that clause was subsequently introduced, for allowing them to be discharged in this country with licences to be at large.

1708. It has been explained to this Committee by the official witnesses who have been examined, that the present practice of the Government is to grant tickets of leave only to those persons who were under sentence of transportation when the Act of 1853 was passed, and that, except in special and exceptional cases, no tickets of leave would be granted to prisoners sentenced to penal servitude at home; may I ask your Lordship whether you do not think it would be better and more prudent to act still upon that system of tickets of leave, even with regard to that portion of our convicts who are sentenced to penal servitude at home?—I think there is, in the first place, some difficulty about it, from the short periods of the sentences of penal servitude. The whole efficiency of the ticket of leave depends upon there being a considerable portion of the sentence of the convict unexpired at the time he receives it; therefore, with these short sentences of four years, I doubt whether that would be as effective as it ought to be; but besides that, I think there is some reason to apprehend that, in the different circumstances of this country from those of the colonies, the fact of holding a licence or a ticket of leave may present some additional difficulties in the way

of a man who is discharged from a penal establishment, and who wishes to live honestly. There is a strong prejudice against persons in that situation in this country; they become necessarily more known than they would be if they were allowed freely to mix with the population, and I think it requires farther experience to prove whether it is desirable to use those tickets of leave or not. I should be sorry at once to abandon the experiment; but, on the other hand, I should be equally sorry to express a confident opinion that it would succeed. I think it requires farther trial.

1709. Are you aware of the statistics which have been given to this Committee, and which I think have also been stated in Parliament, with regard to the actual proportion of ticket-of-leave men up to this time who have come again within the grasp of the law?—I have seen it, and I think, upon the whole, it is tolerably favourable; but, as I have said before, I think that that by no means gives you anything like a fair view of what the ultimate working of the system will be. The new law has been in force less than three years, and those persons holding tickets of leave were all sentenced under the former law, when the Crown had greater power over them; and yet, notwithstanding that, I observe from some of the evidence which I have now looked over, that the proportion of revocation of licences has been gradually increasing as the system has gone on longer, and that now there is a much larger proportion of those who have received these licences. I find that Captain Whitty states, "It is singular to observe the regularity of increase which takes place in the per-centage each quarter on the aggregate number. There have been ten quarters now to the 31st of March since the Act came into operation, and the per-centage has increased at the rate very nearly of three-tenths per cent. in each quarter; at the latest period the per-centage of revocations of licences on public works was $3\frac{4}{10}$ths per cent., which on the ten quarters makes about three-tenths as the average of each quarter; and in tracing them up individually, it has gone on at that progress during the whole of the ten quarters; so that one might almost calculate from that, at any number of quarters in advance of the present time, what the per-centage of the revocations would be." Then there follows a table, which shows the progressive increase in the number of revocations.

1710. We have been led to suppose, by the evidence which we have received, that, on the general average of the three years which have elapsed, about 92 per cent. of those who have received licences have remained free from any further stain or imputation on their character; would not your Lordship consider that (making full allowance for what you have so justly stated as to the experiment being a short one) an encouraging fact with regard to the system of tickets of leave even at home?—I am inclined to think it is.

1711. Does it not lead you to this conclusion, that it would be wise and prudent, assuming that our convicts are to remain in this country, so to extend the sentences as to leave a margin within which tickets of leave might be granted, rather than setting the men at large at once, in this country?—I think that is of the very greatest importance. It is of importance not only with a view to having greater control over these men when they are discharged, but it is still more important, in order that a proper reformatory system may be applied to them while they are under punishment, so as to make them more likely to behave well when they are discharged. I look with the greatest apprehension at the consequences of the present system, which affords no adequate motive to good conduct to the men while they are in custody, and I am persuaded that when this law has been in force a little longer you will have a very dangerous and a very hardened class of men coming out of your penal establishments unless some change is made. I feel that so strongly, that even with regard to those who have been sentenced under the present law, I think it would be a less inconvenience to let them know that they might, by good conduct, obtain discharge from these establishments at the expiration of somewhere about half even their present short sentences, than to continue them in those establishments without any adequate motive to good conduct and to industry.

1712. You think it essential to the success of a system of penal servitude at home that the element of hope should be introduced?—I think it is absolutely essential, and that there is no other means of making use of that stimulus of hope to be compared, in efficiency or in safety, to that of shortening the sentence of the convict in proportion to his conduct; any other relaxation which you could give him, the hope of money which he is to receive upon his discharge, or a less

The Right Hon. Earl *Grey*.

26 May 1856.

severe system before his discharge; any of those advantages are comparatively very inefficient, and attended with various inconveniences; particularly accumulating his earnings, because the placing of a large sum of money in the hands of a convict at his discharge is a great temptation, and is attended with much inconvenience.

1713. Your Lordship has expressed an opinion this morning that the Act of 1853 ought to be so altered as to make the periods of penal servitude co-extensive with the periods of transportation for which respectively they have been substituted?—Yes.

1714. In expressing that opinion, am I right in presuming that you did not contemplate that in any case the convict should be kept in actual penal servitude at home for the whole of the period of sentence?—In no case but that of a man whose conduct was reckless and hardened during his imprisonment. I think it should be clearly understood that in case of such misconduct under punishment, the whole period would be passed in punishment. The efficiency of it depends upon the power of so continuing it.

1715. Let me take the shortest and by far the most common sentence of transportation, viz., seven years, and assume the case in either event, either of a sentence of seven years' transportation or of a sentence of seven years' penal servitude, and a misconducted man, I apprehend that even in the case of a misconducted man sentenced to seven years' transportation, he would have gone abroad for a period of that sentence?—Are you speaking of the old law?

1716. I am comparing the old law with the new; would not the sentence in that event on a misconducted man, of penal servitude carried out at home for seven years, be a very much severer sentence than the sentence of seven years' transportation, a portion at least of which would have been carried out in a colony under a ticket of leave?—But under the system of transportation as it latterly existed (I mean subsequently to 1847), a misconducted man never would have gone to the colonies; he would have passed his whole time in penal servitude here, because he would never have become eligible for a ticket of leave, and at the end of the seven years the Crown would have had no farther power over him. Practically, I believe those cases never would have arisen, because the general body of convicts are so anxious to obtain their tickets of leave, that they exercise a sort of police over each other, and one or two reckless and bad men can hardly set themselves against the whole body of those with whom they are working.

1717. Is your Lordship aware whether such a case has ever occurred as a seven years' transport having been detained, either for the whole or for as long a period of his sentence as the lapse of time has permitted, upon public works in this country?—There have been repeated cases under the old system of transportation in which a convict sentenced to transportation never got discharged from penal labour at all, because if his conduct was reckless in the colony, he incurred a fresh sentence there; his ticket of leave was recalled, and he got sent to the iron gang, which they had at one time, the road gang, or to Norfolk Island. There were repeated instances of men who never got discharged from penal labour either at home or abroad, and the penal labour in the colony was much more severe than the penal labour here. The condition of a convict at Norfolk Island was out of all comparison worse than the condition of any convict at Portland or Dartmoor.

1718. However, I understand that, in recommending that seven years' penal servitude should be the sentence of all convicts where seven years' transportation would have been formerly the sentence, your Lordship does not contemplate that the persons so sentenced should actually serve out seven years of labour on public works in this country?—I should revert precisely to the scale which was adopted in 1847 and 1848, which was framed with very great care. The periods at which men would obtain tickets of leave were there defined according to the degree of their good conduct. I should revert to that scale, only so far modifying it as to say, that when a ticket of leave could not be granted in the colony, it should be deferred a short time, in consideration of its being granted at home instead of in the colony. That was frequently done even under the system of 1847 and 1848, because in introducing the plan there were at first many difficulties to be encountered in finding sufficient means of disposing of all the convicts, and that was partly met by allowing some to be discharged at home after

rather

rather a longer period of associated labour than they would have had to qualify them for discharge in the colonies.

1719. I do not quite understand your Lordship's meaning in the expression which you used in your last answer, viz., that in the case of a man detained at home the ticket of leave should be deferred; will you be kind enough to explain that?—I would say this, that if you took three years or three-and-a-half years as the minimum period for the discharge with a ticket of leave of a man under a seven years' sentence in the colony, I think it would be very fair if he was not exposed to the pain of banishment, that he should not get his ticket of leave until after four years at home.

1720. And then that he should have a ticket of leave at home?—And that he should then have a ticket of leave at home. It would be regulated according to the means which you would have of disposing of the men abroad. I should send as large a proportion abroad as I could find the means of satisfactorily disposing of, but the rest I should discharge here, either with tickets of leave or simply with pardons in consequence of their conduct.

1721. Then I believe I rightly collect your Lordship's wishes and intentions to be, that hereafter we should revert as nearly as possible, in fact, to the system which has been prevailing up to the change of the law made in 1853, namely, that sentences should remain what they were; that a given period, not differing much from what it formerly was, should be passed in penal servitude on public works, and then that the men should serve out the remaining balance of their sentences in a colony if possible, and if not possible in a colony, that they should be allowed the benefit of tickets of leave at home?—That is precisely my meaning, with this addition, that I would put an end to the sentence of transportation altogether. I think there is great inconvenience in the present system while you have very limited means of transporting convicts; the Judges pass sentences upon a certain number of persons of transportation for 14 years or for life; the Judges have no means whatever of knowing what the capabilities of receiving these convicts are in the colony; therefore the inconvenience must be incurred, either that the Judges will pass a sentence which cannot be carried into effect in some instances, or they will run the risk of not passing a sentence of transportation upon a sufficient number of convicts to enable the Crown to meet the demand for convict labour which actually exists in the colony. If the sentences were in all cases so many years of penal labour, with the understanding that that period was to be reduced upon the principle which I have already described, then the Secretary of State for the Colonies, who has the best means of judging what the condition of the labour market in the colonies is, would be able to say annually what proportion of convicts could be received, and in that manner there would be no difficulty in making the utmost use which you can of those facilities of disposing of convicts which may exist from time to time.

1722. I believe practically inconvenience has arisen from the very cause to which your Lordship refers, viz., that the Judges being in ignorance of the state of the colonies, have not passed sentences of transportation in this country to such an extent as might well have been accommodated in the colony; but am I to understand your Lordship to express the opinion, that while you would send convicts abroad, so far as it is possible to accommodate them in distant colonies, you would still give up the sentence of transportation at home, and only pass in all cases sentences of penal servitude?—That is what I mean, considering the sending to the colony with a ticket of leave an indulgence for good conduct, which the convict would be very glad to obtain in preference to remaining in a penal establishment.

1723. I cannot doubt that your Lordship would concur in what I believe to be a most general opinion, viz., that looking to the administration of the Criminal Law, it is most essential that, so far as possible, sentences should be certain in their language; would not the system which you recommend be open to the objection of there being uncertainty of what the effect of the sentence would be?—It might be to a certain degree open to that objection, but I think that the system would be one less open to that objection than the present system, or than any other system, unless you abandon transportation altogether, because the sentence would in all cases be penal servitude for a given time, with a general rule, that that penal servitude was susceptible of mitigation, according to a well-understood and well-defined rule, that mitigation taking place either at home or in the colonies according to circumstances.

 1724. I understand

The Right Hon. Earl *Grey*.

26 May 1856.

1724. I understand your Lordship's suggestion to be, that in the court passing sentence, where the law awards penal servitude for crimes the sentence should always be penal servitude, and that then it should be a matter of complete uncertainty whether the persons so sentenced were to go to a distant colony, as it is now a matter of uncertainty whether they shall work out their sentences at Portland or Dartmoor on the one hand, or on the other hand at Bermuda or Gibraltar?—I think it should be matter of certainty that they would work out the penal part of their sentences at one of our great establishments, Portland, Bermuda, Gibraltar, or Dartmoor, and that if they conducted themselves well they should have a ticket of leave at the expiration of somewhere about half the original sentence. The only thing which would be uncertain would be, whether that ticket of leave would be granted a few months earlier in the colony, or a few months later at home.

1725. Would there not be this additional uncertainty, that, in the event of penal servitude at home, almost every man would return into society in this country; in the event of penal servitude in the colony, the case would be exactly reversed, and hardly any man would return to society in this country; would not this fact of itself establish the element of uncertainty, and affect the deterring results of sentences?—It would not, in the operation of the law, prevent them returning to society in this country. After the expiration of a man's sentence he might return. The probability is, that he would find it more advantageous for him to remain in the colony after having been there a certain length of time.

1726. But is it not true that the practical result would be such as I have described, founded upon past experience, which tells us that persons who once go abroad as transported convicts rarely do return?—I think it would; but I am not aware how that could with certainty be avoided, as I have said before, unless you could either provide means in the colony for receiving all convicts sentenced to penal servitude, or on the other hand, give up altogether the advantage of sending abroad a certain proportion, I conceive that it is practically impossible at this moment to provide facilities for receiving all these people abroad; and on the other hand, I think the advantage of disposing of a certain number of them is so great that it would be highly inexpedient to give up the advantage as regards that number.

1727. Looking to the moral effects produced at home, do you think the difficulty would be at all removed if our courts should in all cases pass sentences of transportation instead of penal servitude, and if then the prisoners should be at the disposal of the Crown, either to go abroad or to Bermuda, or to remain in England, as circumstances might require?—I think that there would be this objection to it. In the first place, I am afraid that for a considerable time the majority could not be sent abroad, and that the sentence would be very different from what it implied. If they are sentenced to penal servitude, the very term implies that it places them at the disposal of the Crown, to be dealt with as the Crown may think fit, and the sentence inflicted would correspond with the sentence pronounced by the Court. But further than that, I think it is highly desirable that transportation as a removal from this country should become actually a mitigation of the sentence, and not a serious part of the punishment, and that it should appear upon the face of the sentence to be what it really was in fact. Practically, it is not a part of the punishment, but a mitigation of the punishment, and therefore the sentence should not imply that that which was a mitigation was necessary to be done.

1728. I think I may say that the theory upon which the Act of Parliament of 1853 was founded, and the theory upon which the criminal law of this country has been since administered, has been, that the sentence of transportation being only for long periods, has been, regarded as a step in the gradation of punishments, standing in severity between the capital punishment of death and the punishment of penal servitude; I apprehend that your Lordship's wish and intention is exactly to reverse that theory, and that hereafter the fact of being sent abroad should be regarded rather as a mitigation and a reward for good conduct, than as an aggravation of the punishment?—I think so; and I think so for this reason: for punishment I consider the colonies particularly ill adapted; they are very well for receiving convicts who are to return into society, but they are not well adapted for receiving those who are still under punishment. Take the case of a man who for an aggravated manslaughter, approaching as nearly as

as possible to murder, is sentenced to transportation for life; being also a man of general bad character, and of an age or a state of health which renders him unlikely to be a useful labourer in the colony; it would be extremely unjust to the colony that that man should at any period of his sentence be sent abroad; however he is to be dealt with, I think he should be in the hands of the Crown at home; he could never be of any use to the colony, and unless convicts are to be of use, I do not think that we ought to send them there; a man of that kind might properly be kept for a very prolonged period in a penal establishment, and then some mode of disposing of him at home might be contrived.

1729. In short, you contemplate that the severity of punishment shall be entirely at home, and that the worse the conduct of the criminal, the longer the detention at home shall be?—Yes.

1730. I presume that in suggesting, as you have done, to make the periods of penal servitude co-extensive with the previous periods of transportation, you would recommend that that change should be extended to all the various periods of punishment?—Certainly.

1731. Your Lordship has, no doubt, remarked the very extraordinary peculiarity in the Act of 1853, that while the Act contemplates penal servitude for life, it does not give the power of passing a more severe sentence short of life than 10 years; is your Lordship of opinion, following out the opinion which you have just expressed, that some intermediate periods of penal servitude should be in the power of the courts between 10 years and life, for aggravated cases of crime?—I think so; I believe that the provision to which you have called my attention in the existing Act is to be explained in this manner: that the framers of the Act took exactly the view I have just taken in a former answer, with regard to the impropriety of transporting at all those persons who had committed the most aggravated crimes, barely escaping the infliction of a capital sentence; it was conceived that in that case the convicts ought not to be sent to the colonies, but ought to be under punishment for life at home; but it was supposed that others who were subject to a more severe sentence than 10 years' penal servitude, would be sentenced to 14 or 21 years' transportation under the old system.

1732. How would your Lordship propose to deal with all that class of cases to which, now that the sentence of death is so rare, the severest punishments are awarded, namely, transportation for life, and transportation for various periods above 15 years; what, in your opinion, would be the best mode hereafter, under the system which you are now recommending, of carrying out the law with respect to such cases?—I should, with respect to those cases, revert to the system of 1847 and 1848. The convicts would pass, if I remember rightly, according to that system, a period of from 8 to 10 years in separate imprisonment, and associated labour together, and at the end of that period they would become eligible for tickets of leave. I think that they either must have tickets of leave in the colonies, or must have some establishment formed for them at home. I am by no means certain that for those who are incapable of labour there ought not to be some establishment formed at home, where men of that sort might be kept for the remainder of their lives and never allowed to return to society; I think that is possible.

1733. You do contemplate, then, as the severest punishment short of death, that there should be what I may call civil death, by incarcerating men for life in this country?—I think those men should be sentenced to penal servitude for life, but it probably would be expedient that some means should be contrived in order that they might not become perfectly reckless, by which, after a certain period, they might be placed in a situation very much better than that of the associated labourers on public works.

1734. Mr. *Adderley*.] The proposition which your Lordship has just made is, that all sentences of transportation should cease, but that there should be various sentences of penal servitude, which it should be in the power of the Crown to relax, either by a licence to go to a colony, or by a licence to remain at home?—Precisely.

1735. In what way can any rule be formed as to who should have a licence to go to a colony and who should have a licence to remain at home, except from the mere accidental circumstances of the home or colonial labour market?—There would no doubt be considerable difficulty in any rule of that kind; it could only be done by the Secretary of State from time to time making a regu-

The Right Hon. Earl *Grey*.

26 May 1856.

lation, varying the number which should be sent to the colony; that is the course which I should propose following.

1736. It seems that that would introduce a new element of uncertainty, and if the licence to go to a colony is considered as a boon, might it not produce great disappointment in the minds of prisoners, who by good conduct might suppose that they had earned that boon?—I think not. The form would be this; a man for certain conduct would be entitled to discharge in a colony, say at the end of three years and a half, or at home in four years, one being considered equivalent to the other; which of those two indulgences was granted would depend upon the facilities at the moment of the one or the other. I may just add, that practically there would not, I think, be so much difficulty in making the distinction as might be supposed, because there are many convicts who are anxious to be discharged at home, and as to whom some person at home will undertake to be answerable for providing them with employment; there are others, on the contrary, who have no such means of obtaining employment at home, and who are very anxious to be sent to the colonies, and who may have a knowledge of some business or trade which particularly fits them for emigration, and these men would be sent to the colonies. So that I do not think, practically, there would be any very great difficulty in regulating which should go to the colonies and which should not.

1737. Adopting a plan which would send so many more discharged prisoners to the colonies than are sent under the existing Act, does your Lordship think that there are settled colonies sufficient, which would be willing to receive such a number?—I very much doubt whether there are at present, but, as I have said, I think a market for the labour will gradually extend itself in Western Australia. There is a very large territory in connexion with that colony, which I believe to be available for settlement; as roads are found, and as settlers go there, each of those settlers will probably be able to employ a certain number of convicts; and more than that, we shall find, as we found in New South Wales, that many of the most industrious and frugal of the convicts will themselves speedily rise into the class of employers, and when wages are so high, as they are now in Western Australia, if a man is discharged and gets a piece of land, he will in a very short time accumulate money; he may wish to extend his operations, and he will be able to find employment for one or two persons to help him, and every additional person who is thus established upon the land brings into the colony some trader to help to supply him; the circle is continually expanding, and the market for labour becoming greater.

1738. Your Lordship will excuse my asking you this question: You stated that certain letters from the colonies had expressed a preference for convicts over free emigrants. I hardly suppose that there are any colonies where they abstractedly would prefer the reception of convicts to being peopled with free emigrants?—You must remember that the free emigrants from this country are necessarily, from the very fact of their being emigrants, not the steadiest or the best of our working population. The steadiest and the best men do not like to leave their homes and relations; they get employment at home, and they do not go. A very large majority of free labourers in the colonies, I am sorry to say, get very low-priced spirits, and with the high wages which they receive, the change from their former life is too great for them, and the habits of drunkenness which they adopt in consequence, are very bad. We have only to look at the return of the quantity of spirits consumed in the Australian colonies, in proportion to the population, to be convinced what frightful habits of drunkenness must prevail. The convicts, under the system which was lately adopted, in the first place felt very severely the effects of misconduct. In the next, they had been subjected for a considerable time to a system calculated to have a powerful effect upon their minds, and also to teach them habits of regular industry and useful labour. The consequence was, that many of the principal flock-masters and employers of labour (I have seen letters from them myself), said that they found far better servants in these men sent with tickets of leave, than in the free emigrants that they could get. I do not mean to say that the society of any one colony would at this moment prefer convicts to free emigrants. I think quite the contrary; I think the effect of the discussions at home was to wound the very susceptible vanity of the colonists, and to alter their feeling with regard to convict labour; their passions much more than their reason were excited, and they opposed it; but it is not 20 years since the colonists, both of Van Diemen's Land

Land and of New South Wales, resented as a positive breach of faith any attempt to reduce the number of convicts who were sent under the assignment system.

1739. Does your Lordship think that as our colonies are placed in a new position now, under free constitutions, they are much less likely than they were at the time to which your Lordship alludes, to consent again to the reception of convicts?—If it was done judiciously, and if a certain number of men with tickets of leave were sent out only to persons who engaged to employ them, and if the Government made some pecuniary concession, to render it worth the while of the colonists to receive these people; for instance, if 5 *l.* a year was paid from the revenue of this country for every convict so taken by the colonists, I believe that in the course of a very few years the feeling would alter. I do not expect that it would take place suddenly, but I think that the utility of these men would be found so great, and that the scarcity of labour at the same time is so great in many of these colonies, that I believe gradually the feeling would entirely change, and that there would be a much better field for their employment than exists at this moment.

1740. Your Lordship suggested, that in order to open a new colony for the reception of our convicts, there must be a very large Government expenditure; does not your Lordship think that this country would make such an expenditure at a very great risk, if a free Parliament might at any moment, in that colony, cease to give its consent, even after the system had commenced?—I have said that a very large expenditure would be necessary to establish a new penal colony, or to send a very greatly increased number of convicts to one place. But I believe that a moderate number of convicts might be sent to any existing colony with scarcely any expense at all, beyond some concession in proportion to the number of persons so sent; not sending them to be there employed in penal labour, but sending them in the position of holders of tickets of leave.

1741. Has your Lordship considered the advisability of altering the 9th clause of the Penal Servitude Act, which enables Her Majesty to grant licences to be at large, so that the licence might run, instead of being a licence to be at large in the United Kingdom and the Channel Islands, as a licence to be at large anywhere except in the United Kingdom?—That is, in fact, to substitute for the present system the system of what is called a conditional pardon. The difficulty of that is, how is it to be enforced? You cannot turn a man out of prison, and say to him, "If you are found in this country after a certain length of time you will be punished," because the man would have no means of getting out of it. If you furnish him with money, he has the temptation of going to a public house and spending the money, instead of going out of the country. If you give the convicts the money, and release them in a foreign country, or in any colony that you may send them to, it is impracticable. Therefore I do not think you could, with any advantage, substitute giving licences in the form prescribed.

1742. Would not the funds with which the discharged prisoners are now furnished in the form of gratuities, by which they are enabled to move to places where employment offers within the kingdom, be equally available to enable the men to emigrate out of the kingdom?—I think not, because it is perfectly certain that the moment a system of that kind was adopted, you would have the existing laws, which are tolerably severe in the United States, made more severe; shipowners are at this moment liable to a severe penalty if they bring persons who have been convicts. If it was known that the British Government discharged convicts here, and only gave them their gratuity when they had taken a passage to the United States, that law would be rendered still more stringent, and would effectually prevent it. If, on the contrary, they were sent to our own colonies, it would be only sending the convicts under a system which experience has shown to be much more injurious to the convicts, and much less advantageous than sending them with tickets of leave. Therefore, the probability is, that the resistance to receiving them in that form would be at least as great if not greater than to receiving them with tickets of leave.

1743. Has your Lordship considered the possibility of enabling them to emigrate through the means of societies at the ports of debarkation, by which discharged prisoners might be enabled through the means of private individuals to emigrate out of this country, the Government not knowing where?—I think if that is done to any extent, there will be precisely the same objection in foreign countries and in the colonies to an indirect mode of that sort of getting rid of

The Right Hon. Earl *Grey*.

26 May 1856.

our convicts at their expense as to doing it directly, and perhaps a greater objection.

1744. Will your Lordship tell us upon what terms you suggest that discharged prisoners sent out with licences should be received in the colonies; whether as free men, or under any conditions?—I think the regulations which were in force formerly with regard to ticket-of-leave holders, were upon the whole the best which could be established; those regulations left them almost entirely with the advantages of free men, but with certain exceptions. They were required to pay a part of the expense of their own passage. I do not know that it is essential to enforce that, but what was really important was the power of compelling them at once to leave the towns, and to go and reside in the more rural parts where their labour was most required, and where there was the least temptation for them to relapse into a life of crime.

1745. Would such a plan necessitate the Government establishing depôts for the reception of such convicts on their arrival?—In Western Australia there is such a depôt. If the plan was established in any new colony, I think the safest way of beginning it would be, that no convicts should be sent except to persons who had applied to have convict servants, and that they should be forwarded direct to the masters who had so applied for them. I am convinced that if it was known that, free of expense, a well-trained convict servant might be sent to a master who applied for him, very speedily those applications would become very numerous.

1746. Your Lordship seemed to think that, by Government expenditure, small colonies might be adapted sufficiently to be recipients of convicts; would there not be very great danger in any action or expenditure of the Government establishing a colony; is not the experience of Western Australia against the success of such an artificial development of a new settlement?—I do not think so; I think it is only four or five years that the system has been in active operation in Western Australia, and in that time it has had a great disadvantage to contend with in the discovery of gold in another part of that continent, which has naturally carried off a good many of the former settlers, and made it much more difficult to retain persons who are sent there. But we have the experience of what was done in New South Wales and Van Diemen's Land formerly; we know how very speedily the policy which was acted upon there was successful, and how very great a demand for labour was created. When Lord Bathurst first began allowing convicts to be given to the settlers as assigned servants, it was necessary to bribe them to take them, by allowing a remission of quit-rent in proportion to the number of convicts employed; but in a very short time, instead of this, there was the most eager competition for their services. If the policy is properly acted upon, I do not see why it should not be completed; but at the same time I certainly very much doubt the policy of forming a new penal establishment anywhere, except at the one point I have mentioned, the Falkland Islands, where, for other reasons, I think it is highly desirable for our commerce that there should be the means of repairing ships which may wish to put in there, and a moderate number of convicts, I believe, would afford the cheapest means of forming such an establishment.

1747. With regard to the condition of the Falkland Islands, do you think that that country can be developed as a settled country, or do you not think that such a depôt of convicts there as you suggest will be very likely to become a mere place of Government employment, or possibly a place more like Norfolk Island?—I do not think it would at all. In the first place, I think a great many of the convicts from the Falkland Islands would be dispersed to other parts of the world in the manner contemplated by one of your former questions, but in a less objectionable way, because there would be no control over them; they would not be prevented from going away, and I believe they would find their way to other parts of the world. But I also think that the advantages of the Falkland Islands, as a place of call for the very numerous ships which now come home past Cape Horn, would be such that there would gradually spring up some considerable amount of trade there in preparing for the reception of these ships, and making repairs when they came. Those islands possess some very considerable advantages. No doubt they cannot grow corn, but they produce stock very advantageously. Cattle may be fed there, and garden vegetables can be produced there, and there are some of the finest harbours in the world.

1748. Sir *J. Pakington*.] Having regard to the opinions which you have expressed

expressed as to the Falkland Islands, have you at all contemplated the number of convicts which might be received there?—I am not able to make that calculation. The way in which it should be done would be to enter into a contract with some of the great contractors in this country to construct a dock, and then I should send out as many labourers as they thought desirable.

1749. I apprehend that your opinion is, that it would be impossible for this country to look to the Falkland Islands as affording any permanent demand for convicts beyond what the construction of certain works of that kind might require?—I believe that when those works were established, it would become a trading place of some importance, if there were a dock, and facilities for merchant ships being refitted when they called there; the labourers required for that purpose would want supplies; a certain number of tradesmen would be established to supply them; there would be a certain quantity of cultivation carried on for the purpose, and I dare say that a moderate number of convicts might advantageously be sent there.

1750. Mr. *M. Milnes.*] Has the attention of your Lordship ever been directed to the project of sending convicts to the North American colonies?—I do not think that that is at all likely to answer. If the Legislatures of those colonies were to apply for them it would be a different thing. I do not think any such application is likely to be made, and without it I do not think it is desirable to send them.

1751. Are there not very large tracts of improvable land there, and is there not a great deficiency of labour, and are they not colonies which would be liable to none of the objections which the southern colonies would be liable to?—I doubt whether there are any such situations.

1752. An objection was made to your Lordship's proposal, on the ground that it would diminish the certainty of punishment; but is it possible to combine an entire certainty of punishment with the principle of a gradual amelioration of the condition of the convict in consequence of his good behaviour?—I do not think it is, and I never have believed that certainty so understood is desirable. I think that certainty as to what may be the actual lot of the convict is not wanted. What you want is a certainty that according to his conduct he will be better or worse, and that would be provided for by such a system as I have mentioned.

1753. Am I to understand that it is the opinion of your Lordship that "transportation" has become a word so indeterminate in its signification that it would be better that it should be at once given up?—I think so. I think the word "transportation" had better be abandoned altogether, and a new sentence of penal servitude substituted in all cases, retaining transportation practically for that for which I believe it is only desirable, namely, the means of disposing of convicts after they have gone through the strictly penal part of their sentence to as great an extent as you can.

1754. Does your Lordship see in the present circumstances of any of our Australian colonies circumstances which induce you to think that there is likely to be a change of public opinion on that subject?—I believe that at this moment at Moreton Bay, if that district obtains what I think it is fairly entitled to, separation from New South Wales, there is almost an equal division of opinion in favour of having convicts or not, and that the probability is, that as the want of labour becomes greater, the illimitable plains which extend northwards, and which are applicable to sheep, will create a desire on the part of the inhabitants of that district to have convicts, provided that they have only well-trained convicts, likely to behave well in the manner I have described.

1755. Does not your Lordship think that if the modified system of transportation which has been adapted to Western Australia goes on being so successful as it has hitherto been in developing that colony, that system will have a very favourable effect upon public opinion in other parts of Australia?—I think it will progressively have very great effect, especially if either a road or a railroad can be opened from Perth to King George's Sound, which is a thing most desirable at this moment.

1756. You think that if it became known through the whole of that immense district that a great improvement of that kind had been effected by means of convict labour, that fact would be of use in modifying public opinion?—I think so, and when the controversy has been somewhat forgotten; I believe that the great clamour against convicts was created by two circumstances; first, the

The Right Hon. Earl *Grey*.

26 May 1856.

unfortunate sending of such vast numbers to Van Diemen's Land under a very imperfect system of regulation, which led to very great evils, and next the language which was held in this country by which the colonists were led to believe that they were regarded as an inferior class from their receiving convicts.

1757. Does your Lordship believe that up to the time of that agitation there had been a party in those colonies who believed that the introduction of convicts was injurious to a colonial population?—I believe there had been for a very considerable period a certain number of persons in the colony who objected to the reception of convicts; but the loudest expression of opinion was quite the other way up to a comparatively recent period. In the years 1840 and 1841 putting an end to the system of assignment was talked of very much in the same language as the West Indians talked of the abolition of slavery in 1833; as the greatest act of injustice to the masters in the colonies.

1758. May not that, in some degree, be attributed to the circumstance that the methods of transportation which were used after the principle of assignment was abolished were not so immediately advantageous to the colonists as the system of assignment itself?—I think so, and I think the complaint was a just one; I think the manner in which transportation was carried on immediately after the system of assignment was abolished, made it a most serious evil to the colony.

1759. The system of assignment carried along with it certain positive material interests, which afterwards were not so evident?—Not only that, but at the very same time, when that assignment was stopped and the number of convicts that was sent was very largely increased, unfortunately, by a short-sighted economy, the means of properly supporting the convicts and of employing them were cut off. A very inadequate staff was sent out for the management of the increased number of convicts who were kept immediately under the charge of the public, and at the same time the territorial revenue of Van Diemen's Land was taken away to diminish part of the expenses of the Home Government, which thus deprived the Colonial Government of the only fund by which it could have opened new portions of the colony for settlement, and extended the demand for labour. It was the effect of these measures which led to the frightful state of things that existed in Van Diemen's Land in 1846.

1760. Sir *J. Pakington*.] You have stated an opinion that Moreton Bay would be ready, in all probability, to take some of our convicts, in the event of their separation from New South Wales; do you think that, even in the event of that separation, we could send convicts to Moreton Bay, consistently with good faith to New South Wales?—I think that New South Wales would have no sort of right to object to Moreton Bay, considering its own interest in that matter. New South Wales is itself the creation of the immense expenditure of this country for convict purposes, and I do not see, that now it has been made a very wealthy and a very prosperous community by the expenditure of this country for that purpose, it can object to its neighbour having a similar prosperity by a similar expenditure.

1761. Whatever may be the abstract justice of the case, does not your Lordship think that any attempt in any shape to send convicts to Moreton Bay would lead to great dissatisfaction in New South Wales?—I think it might very likely lead to great dissatisfaction; but I am not of opinion that that would be of any serious consequence. At the same time, I do not apprehend that convicts would be immediately applied for at Moreton Bay. I do not say that opinion at this moment is in such a state that even, with a separate Legislature, they would at once apply for them; I think it is only by degrees, and when the advantages derived from the system are seen, as in Western Australia, and the deficiency of free labour is felt, that any application is likely to be made from Moreton Bay.

1762. Mr. *K. Seymer*.] Supposing it were found to be impossible to dispose of our convicts in the colonies, would your Lordship still recommend that modification of sentences which you have suggested?—I think it would be still more important under those circumstances, because it would be still more important to have such a system which would enable you to bring to bear upon your penal establishments in this country those motives which are necessary for the establishment of good discipline, and the enforcement of industry; so that the convicts discharged from those establishments might be likely to fall back into their places among the ordinary working population.

1763. In

1763. In that case, all the convicts would be discharged with their tickets of leave in this country?—Either with tickets of leave, or at the expiration of their sentences, as the case might be.

1764. At the time when your Lordship was at the head of the Colonial Office, did the office possess the means of ascertaining what proportion of convicts transported returned to this country at the end of their sentence?—I do not think that any accurate information upon that subject was ever obtained, or could be obtained; it was a very small proportion, certainly.

1765. Your Lordship stated, I think, that you frequently received application from the colony for free pardons?—Very frequently, indeed.

1766. Was that with a view to the convict's returning to this country?—Yes; but those applications, I think, were principally from persons not quite of the working classes; I think the high wages were so great a temptation for the convicts of the working classes to remain there, that they were seldom anxious to come back, unless they had relations at home; but in the case of those who were in rather a superior class of life, those who had been clerks, or anything above that, there was not the same demand for their labour in the colonies, and not the same facility for their settling themselves in life there, and they very often had friends here whom they were anxious to come back to; and I think it was chiefly from that class that the applications for free pardons were made.

1767. Practically speaking, did the system of transportation, as a rule, come to this, that criminals who were transported did not return to this country?—Of the criminals who were transported, the vast majority remained there.

1768. And under the proposed system, which I alluded to in my first question, all criminals would be eventually discharged in this country?—Certainly.

1769. Has your Lordship considered at all the probable effect of that upon the general criminality of the country?—I have always had the greatest possible apprehension as to the effects of it. I know how very serious the consequence of the discharge at home of convicts has been in other countries in Europe, and even with the best system that can be adopted in this country, I should be very apprehensive of the accumulation of large numbers of convicts here: that is the reason why I think it is so highly desirable that every effort should be made to extend the means of sending them abroad.

1770 Mr. *Massey*.] Some of the witnesses before this Committee, who are adverse even to the partial resumption of the system of transportation, have expressed the opinion that the demand for convict labour which still exists in Western Australia, arises only from a desire to promote Government expenditure; does your Lordship concur in that opinion, or have you the means of forming an opinion upon that subject?—I have known nothing of Western Australia during the last three or four years except from the papers which have been laid before Parliament. I should gather from those that there is still a considerable want of labour there, and that they wish convicts to be sent, not only for the sake of the expenditure, but also for the sake of the labour. At the same time it is undoubtedly true that in Western Australia, as nearer home, Government expenditure is very popular with those who get the advantages of it.

1771. I understand your Lordship to say, that in resuming transportation in future you would only send convicts to the colonies in cases where there was a specific demand for them?—Except in Western Australia, where you do possess a very complete depôt, which has been formed at a very large expense, I think that that would be a prudent rule; but where you have the advantage of that depôt I think you might safely send to Western Australia a certain number, taking care not to overdo it.

1772. Is your Lordship of opinion that the repugnance which now exists to the reception of convicts in those colonies, which are at present closed against convicts, arises not so much from a dislike to the people themselves as from the mismanagement, so to speak, of the mode in which they were transported there?—I think it was originally created by that mismanagement; it certainly did not exist 20 years ago.

1773. Your Lordship reminded us that a complaint was made of something like a breach of faith on the part of this Government in withdrawing convicts some years ago from Van Diemen's Land?—More from New South Wales.

1774. Is the condition of that colony essentially changed since that complaint was made?—At the time that complaint was made, it was founded very much upon putting an end to the system of assignment. In fact, the system of assign-

The Right Hon. Earl *Grey*.

26 May 1856.

ment was an immense pecuniary advantage to the employers who received the labourers, and those who lost that advantage complained very loudly. The circumstances of the colony are to a certain extent changed since. The scarcity of labour is not what it was, but I think that gold has taken more people there than perhaps it has taken away from other employments.

1775. Sir *J. Pakington.*] Are you of opinion that if all our convicts hitherto transported were to be punished in this country, and ultimately set at large in this country, they would constitute any very formidable addition to the convict population always at large here?—I know that in point of mere numbers the addition would not be so very large; but then I cannot help thinking that all the worst offences are included among the sentences of transportation, and you would have a certain number of men of a very dangerous character, who would have a bad influence upon the rest of our convicts in this country, and whose presence would be injurious.

1776. Is it not the fact that in point of numbers they would not add more than about 3 per cent. to the amount of convict population at large in this country?—I donot remember the per-centage exactly; I know it is not a very large per-centage.

1777. Do you not think that amongst that population so at large, there is a very large proportion of characters quite as desperate and quite as hopeless as would be the case with a considerable number of transports?—That might be the case, particularly if the reformatory system was properly enforced at home; and I am willing to hope that, under a proper system, at home the inconveniences might be less serious than I have always anticipated; at the same time I always have felt that it is a very serious danger.

1778. Are you of opinion that the public alarm upon that subject is at all exaggerated?—I think, with respect to the holders of tickets of leave, it has been very much exaggerated. Whether the system of tickets of leave is right or wrong, I cannot conceive that there is so much difference between ticket-of-leave holders and those men discharged at the completion of their sentences, as to make the former a much more dangerous class. I think that is impossible.

A P P E N D I X.

Appendix, No. 1.

PAPERS delivered in by *Horatio Waddington*, Esq., 17 April 1856.

(A.)

GREAT BRITAIN.

NUMBER of CONVICTS Transported from 1848 to 1852, inclusive.

	MALES.	FEMALES.	TOTAL.
1848 - - - - -	1,407	490	1,897
1849 - - - - -	1,243	377	1,620
1850 - - - - -	2,105	360	2,465
1851 - - - - -	2,008	432	2,440
1852 - - - - -	2,102	439	2,541
TOTAL - - -	8,865	2,098	10,963

NUMBER of Persons Sentenced to Transportation during the same Period.

1848 - - - - - - - -	3,601
1849 - - - - - - - -	3,218
1850 - - - - - - - -	3,176
1851 - - - - - - - -	3,338
1852 - - - - - - - -	2,896
TOTAL - - -	16,229

(B.)

GREAT BRITAIN.

				MALES.	FEMALES.	TOTAL.
Number of Convicts under Sentence of Transportation in Confinement on the 30th September 1853 - - - -				9,370	480	9,850
	Males.	Females.	Total.			
Transported -	1,320	- -	1,320			
Licensed -	4,873	279	5,152			
Died - -	250	20	270			
				6,443	299	6,742
				2,927	181	3,108
Licenses Revoked - - - - -				173	6	179
Remaining in Confinement - - -				3,100	187	3,287

(C.)

RETURN as to Orders of License.

	MALES.							FEMALES.							Total of Males and Females whose Licenses have been Revoked.
				OFFENCES.							OFFENCES.				
	English.	Scotch.	Total.	Felony.	Vagrancy.	Assault.	Offences against the Game Laws.	English.	Scotch.	Total.	Felony.	Vagrancy.	Assault.	Offences against the Game Laws.	
From the 10th October 1853 to the 20th February 1855, inclusive - - -	22	8	30	17	10	3	–	1	–	1	–	1	–	–	31
From the 21st February 1855 to the 11th March 1856, inclusive - - -	140	3	143	48	60	26	9	5	–	5	2	3	–	–	148
Totals - - -	162	11	173	65	70	29	9	6	–	6	2	4	–	–	179

Number reported for Misconduct.					Number Acquitted out of 447 reported.					Number of Convicts released on License.							
MALES.		FEMALES.			MALES.		FEMALES.			MALES.			FEMALES				
English.	Scotch.	English.	Scotch.	Total.	English.	Scotch.	English.	Scotch.	Total.	English.	Scotch.	Total.	English.	Scotch.	Total.	Total of Males and Females.	
39	16	1	–	56	4	–	–	–	4	2,205	359	2,564	53	30	83	2,647	From the 10th October 1853 to 20th February 1855, inclusive.
319	50	13	9	391	16	2	1	2	21	1,582	727	2,309	139	57	196	2,505	From the 21st Feb. 1855 to 11th Mar. 1856, inclusive.
358	66	14	9	447	20	2	1	2	25	3,797	1,086	4,873	192	87	279	5,152	

(D.)

ENGLAND AND WALES.

Number of Persons Committed for Trial in the Years 1854 and 1855.

	1854.	1855.
1. To the Assize Courts; viz.—		
Lent Assize - - - - - - - - -	2,591	2,346
Summer Assize - - - - - - - -	1,748	1,459
Winter Assize - - - - - - - -	232	740
Decrease, 26 persons; but any useful comparison is disturbed by the extension of the Winter Circuit from two Counties in 1854, to 22 Counties in 1855.	4,571	4,545
2. To the Central Criminal Court - - - - -	1,512	1,210
Decrease, 302 persons, or 20·0 per cent.		

	1854.	1855.
3. To County Quarter Sessions Courts - - - - - - Decrease, 1,806 persons, or 12·2 per cent.	14,763	12,957
4. To the Middlesex Quarter Sessions - - - - - - Decrease, 730 persons, or 23 per cent.	3,119	2,389
5. Recorders' Borough Courts - - - - - - - - Decrease, 176 persons, or 3·3 per cent.	5,394	5,173
TOTAL committed for Trial - - -	29,359	26,274

Decrease, 3,085 persons, or 10·5 per cent. But if allowance is made for 452 persons tried at the Winter Assizes, in 20 counties, who, under the usual course, would have waited for trial in the following year, the decrease would amount to 3,537 persons, or 12 per cent.

(E.)

CRIMINAL JUSTICE ACT.

This statute passed the 14th August 1855. Its operation could, therefore, only affect the commitments tried in that year, during the seven or eight weeks which intervened before the Michaelmas Sessions, during great part of which time the provisions of the statute would not be generally known, except where adjournments of the Michaelmas Sessions are held.

The only immediate data for estimating the effect of the summary provisions of the statute may be found in the trials at the Central Criminal Court, and at the Middlesex Sessions of the Peace, in the last three months of 1854, as compared with 1855. These were—

	1854.	1855.
Central Criminal Court - - - - - - - - -	399	314
Middlesex Sessions - - - - - - - - -	736	419
TOTAL - - -	1,135	733

This would show a decrease of 35 per cent., of which at least 25 per cent. may be attributed to the operation of the Criminal Justice Act.

The returns of the proceedings of the police courts of the metropolis are also confirmatory of this. They show the number of convictions under the Act to have been, in 1855,—

August - - - - - - - - - -	9
September - - - - - - - - - -	96
October - - - - - - - - - -	141
November - - - - - - - - - -	143
December - - - - - - - - - -	120
TOTAL - - -	509

(F.)

ENGLAND AND WALES.

NUMBERS of Persons Sentenced to TRANSPORTATION or PENAL SERVITUDE in the Years 1853, 1854, and 1855.

	1853.	1854.	1855.
Transportation - - - - - - -	1,864	310	325
Penal Servitude - - - - - -	504	2,108	2,048
TOTAL - -	2,368	2,418	2,373

Appendix, No. 2.

Appendix, No. 2.

PAPERS delivered in by *Horatio Waddington*, Esq., 21 April 1856.

(A.)

ENGLAND AND WALES.

NUMBER of Persons sentenced to TRANSPORTATION and PENAL SERVITUDE in the Years 1853, 1854, and 1855.

	1853.	1854.	1855.
Transportation - - - - -	1,864	310	300
Penal Servitude - - - - -	504	2,108	1,992
	2,368	2,418	2,292

The numbers in 1855 do not include those sentenced in the 20 counties on the Winter Circuit of that year, for which a winter assize had not been held in the preceding years, amounting to 25 transportation, and 56 penal servitude.

(B.)

RETURN showing the Number of MALE and FEMALE CONVICTS who have been Discharged in *Ireland* between the 1st of September 1853 and the 10th of April 1856.

Male Convicts who have completed				Female Convicts who have completed				Males and Females.
4 Years out of 7 Years.	6 Years out of 10 Years.	7½ Years out of 15 Years.	Total (Males).	4 Years out of 7 Years.	6 Years out of 10 Years.	7½ Years out of 15 Years.	Total (Females).	Gross Total.
970	177	2	1,149	21	nil	nil	21	1,170

The Number of Male Convicts who have been Discharged in *Ireland* on their return from—

Bermuda - - - - - -	365
Gibraltar - - - - - -	6
TOTAL - -	371

Government Prisons Office,
Dublin Castle.

Walter Crofton,
Chairman.

(C.)

NOMINAL RETURN, showing the Number of Male and Female Convicts who have been Discharged on Tickets of Licence in *Ireland*, up to the 10th April 1856.

No.	NAME.	Date of Conviction.	CRIME.	SENTENCE.	Period passed in County or City Gaol.	Period passed in Government Prisons.				Total Period Served.		Revocation of Licence.
						Separate Confinement.		Association				
								On Public Works.		In Trades' Prisons.		
					Yrs. Mths.	*Yrs. Mths.*		*Yrs. Mths.*		*Yrs. Mths.*		
	Males:											
1	James Lynch	27 June 1851	Burglary	10 years' transportation.	0 2	- -		- -		4 7	4 9	Nil.
2	Hugh Mayo	26 June 1852	Larceny	7 ditto	0 5	- -		- -		3 5	3 10	
3	Thomas Dee	9 July 1850	Robbery in dwelling.	10 ditto	0 6	- -		- -		5 3	5 9	
4	John Connors	2 Jan. 1851	Sheep-stealing	10 ditto	0 5	- -		- -		4 10	5 3	
5	James M'Elraith	3 April —	Cow-stealing	10 ditto	0 2	- -		- -		4 10	5 0	
6	Michael Reardon	15 July 1850	Burglary	10 ditto	1 10	0 7		1 11		1 4	5 8	
7	James Nowlan	18 June 1852	Embezzlement	7 ditto	0 6	1 3		- -		2 0	3 9	
8	Francis Reilly	28 Feb. 1851	Receiving stolen goods.	10 ditto	0 4	- -		- -		4 10	5 2	
9	Robert M'Courtney	19 July 1852	Burglary	7 ditto	1 1	1 1		1 4		0 2	3 8	
10	John Hynes	14 Mar. 1851	Robbery from person.	10 ditto	2 4	0 1		1 4		1 4	5 1	
11	Michael Howell	2 July 1849	Sheep-stealing	15 ditto	2 3	- -		4 6 (Gibraltar)		- -	6 9	
12	Thomas M'Connor	9 Jan. 1851	Cow-stealing	10 ditto	0 4	0 11		4 0		- -	5 3	
13	Martin Kelly	4 Mar. —	Highway robbery	10 ditto	- -	- -		4 0		1 1	5 1	
14	Robert W. Gibson, or Hone.	17 Mar. —	Forgery	10 ditto	1 1	- -		3 0		0 11	5 0	
15	Michael Hickey	6 Mar. —	Burglary	10 ditto	- -	- -		4 0		1 1	5 1	
16	Michael Meagher, or Maher	5 Nov. 1852	Burglary and robbery.	7 ditto	0 7	- -		- -		2 10	3 5	
17	Cornelius Phillips	9 July —	Having a stolen bank post-bill in possession.	7 ditto	0 6	- -		- -		3 3	3 9	
18	Jeremiah Lane	7 June 1850	Robbery	10 ditto	2 11	0 1		- -		2 9	5 9	
19	Michael O'Connor, or Connors.	1 July —	Abduction	10 ditto	1 3	1 3		1 11		1 4	5 9	
20	Michael M'Mahon	17 June —	Cow-stealing	10 ditto	2 7	1 3		- -		2 0	5 10	
	Females:											
21	Mary Nailor	28 June 1852	Receiving stolen goods.	7 ditto	0 5	- -		- -		3 4	3 9	
22	Mary Campbell	2 July —	Larceny	7 ditto	0 7	- -		- -		3 2	3 9	
23	Margaret Doogan	25 June —	Larceny	7 ditto	0 9	- -		- -		3 1	3 10	
24	Eliza Killeen	30 June —	Arson	7 ditto	0 8	- -		- -		3 1	3 9	
25	Margaret Donohoe, or Tatlow.	18 June —	Larceny	7 ditto	0 8	- -		- -		3 1	3 9	
26	Mary Maroney	5 July —	Larceny	7 ditto	0 4	- -		- -		3 4	3 8	
27	Mary Fitzgerald	3 July —	Larceny	7 ditto	0 4	- -		- -		3 4	3 8	
28	Ann, or Honoro Henessy.	6 Dec. —	Larceny	7 ditto	0 3	- -		- -		3 1	3 4	
29	Bridget Roche	21 June —	Larceny	7 ditto	0 8	- -		- -		3 1	3 9	

The system of discharging Convicts on Tickets of Licence commenced in March 1856.

Walter Crofton,
Chairman.

FIRST REPORT

TRANSPORTATION.

Ordered, by The House of Commons, *to be Printed,*
27 *May* 1856.

[*Price* 2*s.*]

244.

Under 1*lb.* 12*oz.*

THE LIBRARY
UNIVERSITY OF CALIFORNIA
LOS ANGELES

D 000 975 742

1 56
v.1